INSTITUTE OF INTERNATIONAL EDUCATION

THE FOREIGN TEACHER: HIS LEGAL STATUS AS SHOWN IN TREATIES AND LEGISLATION

With Special Reference to the United States

MARGARET LAMBIE

MEMBER OF THE BAR OF THE STATE OF NEW YORK AND OF THE DISTRICT OF COLUMBIA

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FOREWORD

It is unnecessary today to emphasize the importance of the international exchange of teachers and students. International goodwill and even peace, itself, is primarily a matter of understanding the civilization of each nation by the people of other nations. No agency is of greater importance in realizing such understanding than personal contact of well-selected scholars from foreign lands with those of our own country. To bring before the students of our schools and colleges fine scholars who incarnate the virtues of their nation is to take a long step in the direction of better understanding. One would suppose that all nations would rejoice in such an activity. On the contrary, many resort to measures to place obstacles in the way of teachers from foreign lands accepting appointments in their educational institutions.

This important subject is treated at length in this booklet of the Institute written by Margaret Lambie. Miss Lambie is a member of the Bar of the State of New York and of the District of Columbia, specializing in international law. Her legal work in the fields of immigration, naturalization and citizenship brings her in contact with the government departments that control those activities and gives her the knowledge and experience that justify her authorship of this brochure.

Miss Lambie advocates the conclusion of a treaty on international education between the United States and other countries. The table of contents indicates the wide scope of the work. One important topic considered is the relative difficulty of federal and decentralized systems, like the United States, framing such a treaty. Under our system of government, education is a governmental activity reserved to the States, but the treaty-making power has control of international relations. The discussion of this aspect of the problem and of the laws passed

by a number of the States demanding an oath of allegiance from instructors who teach in the public schools of the State is very instructive and illuminating. To appreciate it one must read the booklet—and one will be amply repaid for having done so.

Assistance in the preparation of "The Foreign Teacher" is acknowledged with appreciation by Miss Lambie to the Department of State, Department of Labor, Office of Education of the Department of Interior, Division of Intellectual Co-operation of the Pan-American Union, American Committee on Intellectual Co-operation of the League of Nations, Carnegie Endowment for International Peace, League of Nations Association, International Intermediary Institute of The Hague, Graduate School of American University, the Presidents of Vassar, Bryn Mawr, Mount Holyoke, Radcliffe, Smith and Wellesley Colleges, the President of Earlham College, and a number of other persons interested in the development of international interchanges in education.

STEPHEN P. DUGGAN, *Director.*

I. SOME INTERNATIONAL PROBLEMS OF THE TEACHING PROFESSION

Under Adrian, professors were appointed to lecture in different places, and Polemon of Laodicea instructed in oratory at Rome, Laodicea, Smyrna and Alexandria. The travelling professor had a free passage on the emperor's ships, or on the vessels laden with grain. In our days of steamboats and railroads the professor should be reinstated.[1]

The growth of civilization made formal agreements necessary between nations for the conduct of many of their mutual political and economic affairs. Treaties of friendship and commerce early recognized the needs of international trade, but not until modern times have there been conventions to promote the international interchange of what might be called an intangible cultural commodity in the form of art, science, literature and language as imparted by foreign teachers.

Interchange of knowledge between different parts of the world, even in remote periods of history, appears to have been a recognized custom, and it has persisted to the present time. This has been due in large measure to international travel of students and professors, the reciprocal recognition of professional degrees and academic credits, the practice of professions by foreigners, and the employment of foreign scientists and experts in industry. The custom of educational interchanges has received official support in various countries through national legislation. Twenty-nine governments, in either bipartite or multipartite treaties, have created official international relations as to international education, and other governments have entered into limited agreements on the subject.[2]

[1]This comment was made in the middle of the 19th century by Francis Lieber, a pioneer in the codification of international law, *Life and Letters of Francis Lieber*, edited by Thomas Sergeant Perry, James R. Osgood and Company, 1882, Boston, p. 424, cited in *The Gradual and Progressive Codification of International Law*, James Brown Scott, Bulletin Pan-American Union, Washington, D. C., September, 1927, p. 859.

[2]See Bulletin Pan-American Union, April, 1931, *Intellectual Co-operation Between the Americas*, Heloise Brainerd. For detailed discussion of treaties concerning teachers, see Chapter II of this booklet.

ATTITUDE IN THE UNITED STATES

The United States has never joined in a convention concerning international interchanges of professors analogous to the detailed agreements on this subject entered into by European and Latin-American nations, but it has become a party to a number of treaties dealing with rights of foreigners, which might be interpreted as including the right to teach. These provisions are framed in general terms, such as permitting aliens to engage in professional work of every kind without interference, upon the same terms as nationals, provided the aliens submit themselves to all local laws, or to engage in every trade, vocation and profession not reserved to nationals of the country, or stating that in whatever relates to rights of residence, the nationals of each contracting party shall enjoy in the territories of the other the same privileges, liberties and rights as native citizens or subjects of the most favored nation. These treaties, however, are inadequate to cover the expanding international needs of education.

It is believed that, without violating the Constitution of the United States, a properly formulated convention could be entered into by the United States for the specific purpose of encouraging international education and of defining the position of the government with respect thereto. The President of the United States has the power to make a treaty concerning rights of alien teachers, which, with consent of the Senate, would become supreme law of the land. The President of the United States has also the power to make international arrangements through executive agreement by exchange of notes, or to promulgate such arrangements as he has been authorized to ratify or proclaim without the advice and consent of the Senate.[3]

No amendment to the Constitution of the United States to create a federal Department of Education is necessary to pave the way for the United States to become a party to

[3]For discussion of these points and judicial decisions in support of them, see Chapters III and IV.

such a convention or agreement, although governments with a national system of education may find it easier than those governments without such a system to join in an international arrangement concerning education.

The United States Senate is already on record as favoring a change in the provisions of the immigration law relating to the non-quota admission of professors. The Senate passed in the 70th Congress a bill which proposed an amendment to the Immigration Act of 1924 by improving the educational requirements for the admission of foreign teachers, through the requirement of proper qualifications to teach and a contract to teach for a definite period in an accredited institution of learning. This may indicate a predisposition on the part of the Senate to consider favorably a treaty concerning foreign teachers. A hearing on the bill was held before a Subcommittee of the Committee on Immigration and Naturalization of the House of Representatives.[4]

Restrictive immigration proponents need not fear that a convention on interchange of teachers will let down the bars. In fact, such a convention might be so worded as to eradicate some of the features which are objectionable from their point of view in the present immigration law concerning non-quota admission of professors. For example, a foreign professor entering the United States today under the non-quota provisions of Section 4 (d) of the Immigration Act of 1924 is not required to continue his vocation of teaching after admission to the United States. His teaching contract completed or severed, he is then free to compete with citizens for any position available in other lines of work. He is admitted to this country permanently, should he desire to remain, and may become a naturalized

[4]Immigration Act of May 26, 1924, 43 U. S. Statutes at Large, 153. Senator David Reed of Pennsylvania introduced Bill S. 2450, which passed the Senate on February 23, 1928, Congressional Record, February 23, 1928, Vol. 69, No. 55, p. 3541. See Hearing 70. 1. 7, *Immigration of College Professors*, before a Subcommittee of the Committee on Immigration and Naturalization, House of Representatives, Government Printing Office, Washington, D. C., 1928.

citizen of the United States, if he complies with the statutory requirements for naturalization.

The present system provides exceptions from the quota for immigrants born in the Western Hemisphere, a fact which gives such immigrants, teachers included, easier access to the United States than those from other parts of the world. An immigrant may come to the United States under the quota and be excepted from the contract labor law, if he is a professor destined to teach in a college or seminary. A professor of a college, academy, seminary or university, who has been teaching continuously for two years immediately preceding his application for admission to the United States, may enter as a non-quota immigrant, if he comes to the United States solely for the purpose of teaching. Yet the choice of an alien teacher by an institution of learning is sometimes limited or even entirely eliminated by legislative enactments, State and federal, concerning immigration or the practice of professions.[5]

Dissatisfaction with provisions of the present immigration laws and statutes of certain States of the United States affecting alien teachers has been expressed by institutions of learning, by educators, by teachers and others. Officials in the Department of State and Department of Labor encounter many practical difficulties in the administration of these provisions.

The best possible education is the right of all children. Foreign countries have much to offer in learning and in culture, but in several States of the United States there is legislation preventing the employment of alien teachers in public schools. This legislation results in advantages to privately-endowed schools over public schools as to freedom of choice in employing foreign teachers. A few States deter aliens from teaching also in private and parochial schools. American students are hampered if the accent of foreign languages is incorrectly imparted by an

[5]For detailed discussion of the immigration laws and State laws of the United States concerning foreign teachers, see Chapter III.

American teacher, or if they are deprived of opportunities to come into contact with representative teachers from other countries. In specialized courses a foreign teacher may have unusual and desirable contributions to offer. It may not be the best policy for students to pursue studies abroad, nor can the average American student afford to attend foreign schools and universities. Yet there is noticeable competition from foreign institutions of learning.

An American teacher is rightly preferred in most subjects, so the maximum number of foreign teachers employed throughout the United States at any one time is, and undoubtedly always would be, small in proportion to the vast number of students in the thousands of schools and universities in the United States. Protection of American teachers from undue foreign competition in the profession and students from subversive propaganda is wise, but it is believed that the repeal or modification of the above-mentioned State laws and changes in the immigration laws of the United States would be in the interest of enlightened education. A shorter and more comprehensive method, however, of promoting international education presents itself in the form of a treaty or international agreement.

A PROPOSED TREATY ON INTERNATIONAL EDUCATION

Participation in a treaty concerning various phases of international education would place the United States in the position of officially aiding international intellectual co-operation, by encouraging institutions of learning in the United States to broaden the scope of instruction offered to American students, and by opening opportunities for American teachers to give instruction abroad.

The convention could provide an educational basis for the admission of foreign teachers to the United States, and such a basis would replace the time-test of the law now in force which requires a teacher applicant for non-quota status to have taught two years immediately prior

to the date of entering the country. Certain inequalities existing under present laws as to public and private schools of a few States of the United States could be obviated by such a treaty, thus assuring to all types of schools freedom of choice in the employment of foreign teachers. Public high schools in general appear to be discriminated against under present interpretation of the immigration laws. The field of instruction by aliens might be made to include all grades according to the need, instead of confining it principally to the higher grades as at present. Especially in language instruction, the latter period often proves too late for a proper beginning.

No compulsion upon the authorities of any school or university to employ a foreign teacher is contemplated, for any step pursuant to the convention would be voluntary on the part of institutions of learning. National control of education would not be fostered in the United States because of such a plan. The United States Office of Education or a Board appointed for the purpose, if utilized in matters of education relating to alien teachers and to citizen teachers abroad, would function only as a clearing-house.

SUGGESTIONS FOR TREATY ON INTERCHANGE OF TEACHERS

1. Subject of treaty
   a. Practice of the teaching profession
   b. Recognition of equivalent degrees
   c. Interchange of teachers[6]
2. Persons included
   a. Alien teachers with qualifications equivalent to qualifications required of citizen teachers for positions in analogous grades and courses

[6] "Interchange" is here used in a broader sense than "exchange." It includes employment and does not necessarily connote reciprocity. Eligibility for naturalization in the foreign country would not be requisite. Provisions for students could be included in the convention, as well as the practice of professions other than that of teaching.

3. Admission of teachers
   a. Classification as nonimmigrant[7]*
4. Nationality of teachers
   a. Residence pursuant to this convention not to be counted toward
      (1) Loss of citizenship[8]
      (2) Naturalization*
   b. Oath taken for faithful performance of duties as teacher not to change citizenship status[9]
5. Registration of teachers
   a. As to immigration: by Ministry or Department administering immigration laws
   b. As to education: by Ministry or Office of Education, a special Board, or an unofficial organization[10]

[7]Compare Section 3 (6) of the Immigration Act of 1924 of the United States, *supra*, which includes among nonimmigrants "an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation." If the United States should become a party to the proposed convention, the Congress of the United States may deem it advisable to bring the Immigration Act of 1924 into harmony with such a policy by an amendment placing alien teachers in the nonimmigrant class under Section 3 thereof, but such an amendment by Congress would not appear to be necessary. See Chapter IV of this booklet. Compare also Section 4(e) of the Immigration Act of 1924, *supra*, which provides certain safeguards in the case of students who are required to maintain student status. If the nonimmigrant teacher under the proposed convention should desire to be naturalized, he could terminate his status as a nonimmigrant and comply with the regulations for immigrants, which, under present law, require a nonimmigrant to leave the United States and secure an immigration visa. Classification as to admission of aliens is determined by American Consuls under the immigration laws of the United States.

[8]Note: The proposed treaty would clarify the status of naturalized citizens of the United States who teach abroad for an extended period of time. Section 2, Act of March 2, 1907, 34 U. S. Statutes at Large, 1228, provides for presumption of loss of citizenship, respecting which Departmental rules are prescribed. See *Presumption of Cessation of Citizenship* by the writer, American Journal of International Law, Vol. 24, No. 2, April, 1930.

[9]For discussion of oaths of allegiance and Section 2, Act of March 2, 1907, *supra*, see Chapter III.

[10]Administration of the proposed convention in the United States could be by the Office of Education or by a special Board composed of officials from Departments concerned, in consultation with representatives of educational groups. See *Interchange of Teachers, British Conference*, Educational Survey, League of Nations, Geneva, July, 1930, Vol. I, No. 3, p. 32,

(1) Applications of teachers
  (a) Qualifications
  (b) Degrees, certificates and government licenses to teach
(2) Positions available
(3) Positions filled
(4) Accredited institutions of learning, public and private
(5) Facts for comparative standard of degrees

6. Employment of teachers[11]
   a. Under contract
   b. By accredited institutions
   c. In any grade or course as needed
   d. Salaries and expenses
   e. Credit toward academic seniority, promotion and honors
   f. New contract or renewal
7. Maintenance of teacher status during stay in country*
   a. Regulations by appropriate Minister or Secretary
   b. Indefinite stay
   c. Departure after consecutive months of unemployment

*This provision would not be included in the convention when national laws do not require departure.

The suggested convention on international education might be bipartite, or multipartite if several countries found themselves in accord with its provisions. Another method of effecting international arrangements is by executive agreement. The government of the United States,

describing proposal for a central unofficial organization to promote and co-ordinate arrangements for the exchange of teachers. The International Institute of Intellectual Co-operation of the League of Nations in Paris, and the Pan-American Union Division of Intellectual Co-operation in Washington and other agencies now assist in interchanges of professors and students. See Chapter V. Observe International Postal Union and International Copyright Union, mentioned in Chapter IV.

[11]Alien teachers from the Western Hemisphere, although excepted from quota requirements, are at present subject to restrictions under statutes in some States of the United States which practically preclude the employment of foreign teachers in those States. See Chapter III of this booklet.

through the sole action of its executive department by an exchange of notes, could provide for international intellectual relations. Such executive agreements on the part of the government of the United States, providing for the interchange of teachers and the employment of foreign experts in federal schools and universities and in positions in federal departments, might include recommending to the public school authorities and private institutions of learning in the several States similar interchange and employment of foreigners within their respective jurisdictions. While the method by executive agreement would be adequate for certain educational purposes, it would be necessary, in order to accomplish other important educational ends, to have the more formal type of international convention.[12]

THEORIES OF INTERNATIONAL EDUCATION

International education manifests itself in different ways. An international university has been suggested under various plans, including that of Professor R. Barany of Upsala University, Sweden, for an international institution,[13] and the Spanish proposal to the League of Nations.[14] The Spanish proposal, for example, recommended the establishment of a self-governing "International University" possessing full academic rights and privileges, with power to confer degrees and give diplomas, the selection of professors to be made from among leading intellectual and scientific authorities, irrespective of their nationality. It was further recommended that there be instituted at one university in each state member of the League a higher degree in courses of advanced studies, the

[12]See Chapters II and IV.

[13]Bulletin de l'Institut Intermédiaire International, La Haye, avril, 1929, XX: 2, p. 371; League of Nations, C.462.M.181.1926.XII, pp. 30–32, 40, 64.

[14]Letter from M. Quiñones de Léon, Spanish Representative, to the Secretary General of the League of Nations, A.34.1923.XII, and A.96 (1) 1923.XII. See also Bulletin of the International University Information Office, Geneva, 1st Year, No. 3, July, 1924, p. 111.

possession of such degree to qualify the holder for the practice of a chosen profession in any of the states belonging to the League. A Pan-American University was recommended in the agenda of the Inter-American Congress of Rectors, Deans and Educators held at Havana from February 20 to 23, 1930, in connection with the program of the Inter-American Institute of Intellectual Co-operation. This Institute has for one of its major projects the interchange of professors and students. It also promotes in the schools and universities of the American countries studies tending to develop mutual understanding. The proposed Pan-American University would give free instruction to students from all American nations, basing the course of study on the languages and important problems of the American countries. The most distinguished professors of the Americas would serve for short periods, and the degrees of the University would be recognized for the practice of a profession in any American country.[15]

In opposition to the theory of a centralized international institution is that of utilizing the systems of public education which the various communities of the world are providing. In the opinion of an international educator, public education is a function which, by its very nature, must not, and indeed cannot, be brought under any form of international control. He maintains that if there is one department of civilized life more than another in which uniformity is death and diversity is the law of life, it is that through which the younger generation is initiated into the social heritage of its community or nation. He states:[16]

[15]*Inter-American Congress of Rectors, Deans and Educators in General*, Creation of Inter-American Institute of Intellectual Co-operation, Heloise Brainerd, Bulletin Pan-American Union, April, 1930, Washington, D. C., pp. 390, 400.

[16]Alfred Zimmern, *Learning and Leadership*, League of Nations, Intellectual Co-operation, Geneva, C.I C.I.188.1927.XII, pp. 31–48. Conference for co-ordination of institutions engaged in higher international studies in the field of political science, Berlin, March 22–24, 1928, League of Nations, C.533.M.160.1928.XII, pp. 83–88.

[A]much-needed improvement is the international interchange of primary teachers . . . If international exchanges are important at the primary stage they are equally important at the secondary. Every secondary teacher under thirty should spend a year abroad and every secondary school without exception should have one or more foreign teachers on its staff . . . The practice of the sabbatical year, one year abroad out of seven, has become a recognized custom for University teachers in the United States. It should become an equally recognized practice that every teacher of political science, sociology, and international law should spend at least one term in every year in a foreign country. Conversely, every University faculty in which these subjects are included should number one or more visiting teachers.

METHOD IN SCHOOLS OF THE UNITED STATES

School systems in the United States have been promoting international understanding, according to a former United States Commissioner of Education,[17] in two general ways: (1) organized instruction given in classes as a part of the regular curricula of the schools and (2) extra-curricula activities carried on by organizations connected with schools, by international societies, scholarship and fellowship funds, and student groups designed to foster the exchange of students and teachers and to care for students in foreign lands. He pointed out that the main part of the training is in the social sciences, history, geography, civics, sociology, psychology, economics, law, and kindred studies that deal with man's relation to his fellowmen. In the elementary schools history, geography, and civics are taught in their simpler forms, dealing generally with local, State and national affairs. He also pointed out that current national and international events are discussed in the classrooms, that international law and

[17] *A Brief Survey of the Activities Carried on by Public and Private Schools and the Agencies Related to the Schools*, Address given at the World Conference on International Justice, John J Tigert, U. S. Commissioner of Education, from the Report of the Proceedings of the Commission on International Implications of Education held at Cleveland, Ohio, May 7 to 11, 1928, printed in Advocate of Peace through Justice, Education Number, September, 1928, Vol. 90, No. 9, pp. 536–540.

related subjects are taught in several hundred higher institutions, and that courses in foreign languages generally aim to give the students an insight into the life, customs and ideals of other countries, as well as a fair reading or speaking knowledge of the tongue. The report of the Commission on the Reorganization of Secondary Education made in 1918 to the National Education Association advised the study of foreign nations:

> Civic education should consider other nations also. As a people we should try to understand their aspirations and ideals that we may deal more sympathetically and intelligently with the immigrant coming to our shores, and have a basis for a wiser and more sympathetic approach to international problems. Our pupils should learn that each nation, at least potentially, has something of worth to contribute to civilization and that humanity would be incomplete without that contribution. That means a study of specific nations, their achievements and possibilities, not ignoring their limitations.

INTERNATIONAL CO-OPERATION

President Hoover's National Advisory Committee on Education recently reported on federal relations to education, and in the international field recommended the development of intellectual and educational co-operation.[18] "Interpreting ourselves abroad" is a feature of the report which points out that the democratic organization of public education in the United States, the effort to base its practice on scientific studies and its extension of democratic higher education offer unique contributions to the world's education. For peoples aiming to develop popular education, the experience, theory and practice of the United States are especially important. "While we have not failed to be receptive to suggestions initiated elsewhere," the report continues, "we have not interpreted ourselves and our unique educational organization to other civilizations."

[18] *Federal Relations to Education*, Report of the National Advisory Committee on Education, October, 1931, 744 Jackson Place, Washington, D. C., Part I, pp. 78–82, Part II, pp. 395–402.

Conversely, constant experimentation is going on abroad of which we need more comprehensive information. The Committee also calls attention to difficulties regarding passport visas and the interpretation of them, arising from the lack of co-ordinated policy as to foreign relations on the part of the Department of State and the Department of Labor. While the Department of State is the agency for conducting foreign relations, regulating the admission of foreigners is vested in the Department of Labor. Numerous cases are on record of annoyance to foreign students and professors, due to administrative differences, and of resulting embarrassment to the United States.

The principle of international co-operation has been intensified during the past decade. "That principle may be formulated in the axiom that *personality precedes co-operation*," observes Dr. Zimmern in Learning and Leadership. "An individual, a social group, a country, must have something to contribute, must in fact *be* something or somebody, before it is fit to be accepted in a larger society formed for ideal ends." Interchange of teachers is one of the means through which individual, group and national interpretations of facts and contributions to knowledge can be made more available internationally. Art and science have no political boundaries.

II. INTERNATIONAL CONVENTIONS RELATING TO ALIEN TEACHERS

The higher a state in culture, the more special the topics mentioned in the treaties, for the general principles governing the treatment of aliens, e. g., protection of life, liberty and property, are recognized by all civilized states.[19]

A treaty has been defined as a compact made between two or more independent nations with a view to the public welfare.[20] The subject of the treaty may include any international matters which are in accord with the practices of civilized nations, provided the treaty does not interfere with the rights of third states. One authority writes:[21]

In diplomatic literature, the words "treaty," "convention" and "protocol" are all applied, more or less indiscriminately, to international agreements. The words "convention" and "protocol" are indeed usually reserved for agreements of lesser dignity, but not necessarily so In the jurisprudence of the United States, however, the term "treaty" is properly to be limited, although the federal statutes and the courts do not always so confine it, to agreements approved by the Senate. Such an agreement may be and often is denominated a "convention," and perchance might be called a "protocol;" but it is also, by reason of its approval by the Senate, in the strict sense a "treaty," and possesses, as the product of the treaty-making process, a specific legal character. By the Constitution of the United States, a "treaty" is a "supreme law of the land," having the force of an act of congressional legislation and overriding any inconsistent provisions not only in the constitutions and laws of the various states, but also in prior national statutes. It is at once an international compact and a municipal law, and in its latter character directly binds the courts and the individual inhabitants of the country. In this respect the legal system of the United States differs from that of most other governments, under which a "treaty," although

[19]E. M. Borchard, *Diplomatic Protection of Citizens Abroad*, The Banks Law Publishing Co., New York, 1915, p. 38
[20]*Bouvier's Law Dictionary* , 3d Revision, 1914, Volume 3.
[21]Moore, J. B., *Treaties and Executive Agreements*, Political Science Quarterly, September, 1905, p. 388.

it represents a binding international compact, becomes legally operative upon courts and individuals only when the legislature adopts it and enacts it into law . . . . .

Such being the nature and meaning of the term "treaty" in the jurisprudence of the United States, we find that the government has been in the habit of entering into various kinds of agreements with foreign powers without going through the process of treaty making.[22]

Current diplomatic business of the government is carried on through the interchange of notes and sometimes through a more formal kind of international agreement, without submission to the Senate. These are called "executive agreements." A temporary or working arrangement, *modus vivendi*, is occasionally utilized to bridge over some difficulty pending a permanent settlement.

TREATIES CONCERNING INTELLECTUAL RELATIONS

Although some treaty provisions dealing with international intellectual relations go back to the year 1831, it is chiefly within the last half century that the interchange of professors and students, the practice of liberal professions, and the mutual recognition of professional degrees and academic credits have been made by governments the subjects of international agreements.

Latin-American governments were the first to enter into treaties concerning intellectual relations by providing for the practice of liberal professions, either in treaties of friendship, peace and commerce, or in separate agreements. Many of these were concluded before the World War and some of the governments also signed conventions for the interchange of professors and students, as well as the mutual recognition of degrees. In 1919 the first European convention on intellectual relations was concluded. In general, the European conventions signed since then are

[22]Note: Some authorities assign to the term "treaty" international engagements of a political character, and to "convention" or "agreement," those concerning temporary matters. For discussion of terms "agreement" and "compact," see Holmes v. Jennison, 14 Pet. 540, 570–572.

concerned with interchanges of professors and students, and occasionally with equivalence of degrees. The following countries in Latin-America and Europe are parties to conventions, believed to be in force with respect to these subjects:—Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, Nicaragua, Salvador, Uruguay and Venezuela; Belgium, Czechoslovakia, Denmark, France, Italy, Luxembourg, Netherlands, Norway, Poland, Rumania, Spain and Yugoslavia.[23]

INTERCHANGE OF TEACHERS

Four conventions on the interchange of professors, dealing with the subject in great detail, have been entered into by Belgium. They were signed by Belgium with France in 1921, with Luxembourg in 1923, with Poland in 1925, and with The Netherlands in 1927. These agreements are quite similar in form and content, and aim to promote closer intellectual relations between the contracting states in science, literature, and art. They provide that as far as possible two professors shall be exchanged, chosen from a university or other high institution of learning. Persons may be selected who are not connected with any university

[23] *Special Handbook*, Sixth International Conference of American States, Pan-American Union, Government Printing Office, Washington, 1927, pp. 96–98. *Documentary Information* compiled by the Division of Intellectual Co-operation of the Pan-American Union for the Information of Delegates to the Inter-American Congress of Rectors, Deans and Educators, Havana, Cuba, February 15, 1930, Pan-American Union, Washington, pp. 25–30. *University Exchanges in Europe*, Handbook, League of Nations Institute of Intellectual Co-operation, Paris, 2d Edition, 1929, under countries mentioned. For chronological list of above treaties see this booklet, Appendix. Texts of some of the European conventions are published in the *Bulletin for University Relations*, League of Nations, International Institute of Intellectual Co-operation, Paris, for example, 1928, IV, No. 2, pp. 98–115; See *League of Nations Treaty Series*, for example, Vol. LXXXIX, 1929, which contains text No 2003, Agreement concerning Intellectual Relations between the Netherlands and Belgium, signed October 26, 1927, ratifications exchanged March 9, 1929; Also *Tratados y convenciones vigentes en la nacion*, Ministerio de Relaciones Exteriores y Culto, Buenos Aires, 1925, vol. 1, p. 809, Convenio sobre intercambio de profesores universitarios, Argentina—Uruguay, July 26, 1925.

faculty, but who belong to learned institutes or societies, or who are esteemed for their intellectual achievements. A technical commission is created to study questions concerning intellectual relations between the contracting states and to propose appropriate methods of developing them. Except in matters which pertain to the internal management and questions of personnel in the institutions where the exchange professors teach, the latter enjoy all the prerogatives which are in accord with the laws and usages of the country. Instruction given by an exchange professor in another country is counted toward seniority, promotion and honorary distinctions, but the time during which a professor may teach abroad is limited to one or two years according to the type of institution receiving him. Details are included in these conventions as to the method of choosing the exchange professors and arrangements for expenses.

France has taken the lead of European countries in this respect and is a party to eight conventions relating to international interchange of teachers. It signed the first one with Italy in 1919, the one with Belgium mentioned above, with Poland in 1922, Czechoslovakia in 1923, Luxembourg in 1923 and Norway in 1927, all of which contain the general principles set forth in the Belgian treaties and in some instances enlarge the field of activity to secondary, primary and technical grades. Agreements signed with Rumania in 1919, and Yugoslavia in 1920, provide for French professors to teach in the two latter countries. Another was signed with Denmark in 1930.

In South America there are four bipartite conventions on the interchange of professors signed by Uruguay, with Argentina in 1915, Chile in 1916, Brazil in 1921, and Colombia in 1922. The portion of the convention between Uruguay and Colombia which relates to the interchange of professors, for example, does not have such detailed arrangements as are enumerated in the Belgian and French series, but establishes analogous principles.

PRACTICE OF PROFESSIONS

The conventions relating to the practice of learned professions include eight entered into by Latin-American countries. The convention signed at the Second International Conference of American States at Mexico City, January 27, 1902, is interesting because it presented a plan for the adherence of the United States, which, however, was not adopted. The principal articles of this convention are:[24]

Art. 1st. The citizens of any of the Republics signing the present Convention, may freely exercise the profession for which they may be duly authorized by diploma or title granted by a competent national authority, of each one of the Signatory States, in any of the territories of the other nations, provided that such diploma or title complies with the regulations established in Articles 4th and 5th, and that the laws of the country, in which it is desired to practice the profession, do not require the practitioner to be a citizen.

* * * *

Art. 4th. Each one of the High Contracting Parties shall give official notice to the others which are the universities or institutions of learning in the Signatory Countries whose titles or diplomas are accepted as valid by the others for the practice of the professions which form the subject of this Convention.

As regards the observance of the foregoing provision by the United States of America, the Department of State of that country shall acquaint the other Signatory Republics with the legislative acts of the respective States of the United States relating to the recognition of the titles or diplomas of the said Signatory Republics and it shall convey, to the various States

[24] *Message from the President of the United States*, etc., and Report of the Delegates of the United States to the Second International Conference of American States, 1902, Senate Document No 330, 57th Congress, First Session, Government Printing Office, Washington, D. C., p. 197. See also *Ibid* p. 23, wherein the plan for adherence of the United States is described as requiring not only the general approval of the convention on the part of the government, but also legislation by the States and Territories of the United States Another example is the Convention on the Practice of the Liberal Professions, signed at the Conference on Central American Affairs held in Washington, D C., from December 4, 1922 to February 7, 1923. For discussion on participation of the United States, see Chapters III and IV of this booklet.

of the United States whose legislation admits of reciprocity, the information which it may receive, making known the titles and diplomas of the respective institutions of learning or Universities of the other Republics which the latter may recommend as valid.

The other High Contracting Parties shall give due recognition to the titles and diplomas of the Universities of the States, Territories and District of Columbia of the United States, which each one of the said High Contracting Parties may select.

Notwithstanding this provision, the educational institutions of the United States, which may not be recognized by the other Signatory Republics and which may consider themselves sufficiently entitled to it, may solicit the recognition of their professional diplomas by the respective Governments, by means of a petition to be accompanied with the corresponding proofs, which shall be passed upon in the manner which each Government may deem proper.

Art. 5th. The diploma, title or certificate of preparatory or higher studies, duly authenticated, and the certification of identification of the person, given by the respective diplomatic or consular agent accredited to the country which has issued any of these documents, shall be sufficient to meet the requirements contemplated by this Convention, after they have been registered in the department of Foreign Relations of the country in which it is desired to practice the profession, which Department shall inform the proper authorities of the country in which the respective title may have been issued, that these requisites have been complied with.

THE UNITED STATES AND TREATIES CONCERNING EDUCATION

The United States has become a party to a type of treaty which permits, among other things, freedom of intercourse and trade; also the practice of professions subject to compliance with local laws and regulations. The United States proclaimed, for example, the Treaty of Friendship, Commerce and Consular Rights with Germany, signed on December 8, 1923,[25] in which Article I

[25] 44 U. S. Statutes at Large (Part 3), 2132.

states that nationals of each of the parties are permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to have certain property rights, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, provided they submit themselves to all local laws and regulations duly established. When the United States Senate consented to this convention and the President proclaimed it, it was provided that nothing contained in Article I shall be construed to affect existing statutes of either country in relation to the immigration of aliens or the right of either country to enact such statutes.[26] Commercial conventions modelled upon the one with Germany have been signed by the United States and brought into force with Hungary, Estonia, Salvador, Honduras, Latvia and Austria. The conventions with Estonia and Latvia include the provision "to engage in every trade, vocation and profession not reserved exclusively to nationals of the country." Analogous conventions of Friendship, Commerce and Consular Rights have been signed by the United States with Norway and Poland.[27]

The United States entered into a treaty with China in 1868, Article VI of which provided for equal privileges of travel and residence, and Article VII provided for equal educational opportunities of their respective citizens as

[26]Senate Resolution, February 10, 1925, 68th Congress, 1st Session.

[27]United States with Hungary, 44 U. S. Statutes at Large (Part 3), 2441; with Estonia, 44 U. S. Statutes at Large (Part 3), 2379; with Salvador, 46 U. S. Statutes (2) 2817, with Honduras, 45 U. S Statutes at Large (Part 2), 2618, with Latvia, 45 U. S. Statutes at Large (Part 2), 2641; with Austria, U. S. Treaty Series, No. 838; with Norway, signed June 5, 1928; and with Poland, signed June 15, 1931.

are enjoyed by the most favored nation. The United States entered into a treaty with Japan in 1894, Article I of which provided for mutual freedom of trade, travel, residence and certain property rights.[28]

INTERNATIONAL RECOGNITION OF DEGREES

Recognition of professional degrees and academic credits is a subject in thirteen conventions entered into by Latin-American countries, in one between Spain and Costa Rica; also in three between Belgium and France, Luxembourg, and Poland. Typical provisions on this subject are set forth in the convention between Colombia and Uruguay, signed April 28, 1922, which, in addition to the exchange of professors previously mentioned, provides for the mutual recognition of academic degrees.[29] Degrees granted for the completion of secondary and preparatory studies are recognized by the official schools of either country and official certificates of uncompleted secondary, preparatory or advanced studies pursued in one of the contracting countries are recognized by the official schools of the other country, provided that the corresponding courses taken cover the same amount of work. It also provides that the foreign students who take advantage of the privileges stated in the preceding articles and enter official schools are exempted from matriculation, examination and graduation fees, provided they never practice in the country the profession in which they graduate; if they wish to practice their profession, they must first pay the fees from which they were exempted. There is also provision in the Belgian conventions with France, Luxembourg and Poland, that degrees shall be mutually recognized for entrance to the professions wherever it is compatible with the laws concerning aliens.

Government diplomas are an important factor in

[28]16 U. S. Statutes at Large, 740, and 29 U. S. Statutes at Large, 848. For discussion of these treaties, see Chapter IV of this booklet.

[29]Ley 71 de 1922 (Noviembre 14), Diario Oficial, Bogota, Colombia, 20 de Noviembre de 1922, p. 353.

European and other countries which have a national system under a Ministry of Education. In Latin-America, for instance, in order to practice a profession, including that of teaching, one must have a diploma from a government university or from a school officially recognized by the Minister of Public Instruction. In some Latin-American countries such a diploma is the legal document authorizing the practice of the profession within the territory of the nation granting it. Therefore, degrees have in those countries an unusual value as a license to practice as well as a credential for studies completed. It is said:

> The right to practice a profession in Latin-America is conferred by the university or professional faculty. The graduate may have some additional forms to observe, but they are only forms and imply no further examination. This usage, which differs from that of the United States, arises from the fact that in the latter country the university is merely a corporation chartered by a State for the purpose of instruction. In Latin-America it is a part of the civil administration, and is empowered not only to instruct, but also to license professional men. There is an exception, in the practice by foreigners of the medical and dental professions, which by legislation in the various Republics requires additional examinations and a knowledge of Spanish.[30]

In Latin-America those who are in the active practice of their professions are usually the ones chosen to teach professional subjects. The importance of the professional diploma is further enhanced when reciprocity treaties regarding the practice of professions have been concluded between states or when the treatment accorded to foreigners is placed upon the same basis as that of nationals.

The recognition of academic degrees between institutions in different countries and often within the territorial limits of the same country presents many complications that are being gradually solved by Ministries of Instruction, by institutions of learning, and by educators. Besides inter-

[30] *Latin-American Universities and Special Schools*, U. S. Bureau of Education, Bulletin No 30, 1912, p. 23.

national agreements relating to equivalence of credits, there are a number of national decrees on the subject.[31]

MINORITY TREATIES

A different type of treaty, which nevertheless has some relation to the profession of teaching by foreigners, is that in which one party is a state where racial, religious and linguistic minorities exist and which pledges that state not only to permit educational opportunities for the minority population, but also to assume part of the financial responsibility for such education. Ten Minority Treaties were drawn up in 1919–1920 and placed under the guaranty of the League of Nations, by the five Principal Allied and Associated Powers, The United States of America, The British Empire, France, Italy and Japan, on the one hand; and Poland, Czechoslovakia, Yugoslavia, Rumania, Greece, Armenia, Austria, Bulgaria, Hungary and Turkey on the other.[32] The United States did not ratify these treaties. In addition to these multipartite treaties a number of bipartite treaties protecting minorities have been signed.

In districts where a minority constitutes a considerable proportion of the population, instruction in the primary schools is required to be given in the language of the minority. Under such provisions there undoubtedly arise questions of securing teachers proficient in the foreign language, as well as problems of comparative academic standards in the schools. A dispute in Upper Silesia arose when Polish authorities took measures to determine whether children in German minority schools ought to attend those schools. Seven thousand children were

[31]See Decree No. 16,782 A of January 13, 1925, Article 215, Republic of Brazil, for an example of a law dealing with recognition of foreign certificates; and Decree regulating the validation of certificates for foreign teachers, November 26, 1927, Costa Rica. See Report of Committee on Intellectual Co-operation, League of Nations, August 15, 1923, A.31. 1923 XII, 8, 16, also A 96 (1).1923 XII, A 20 1924.XII, C.462.M 181.1926. XII, 83

[32]League of Nations Treaty Series See also *The Problem of Minorities, International Conciliation*, No. 222, September, 1926, Carnegie Endowment for International Peace, 405 West 117th Street, New York, pp. 46–49.

excluded, and Germany protested to the Council of the League of Nations, later submitting the case to the Permanent Court of International Justice. On April 26, 1928, judgment was pronounced by the Court which held that the right of a national in Upper Silesia to declare his children as belonging to a racial, linguistic or religious minority does not constitute an unrestricted right to choose the language in which instruction is to be imparted. However, the Court held that a person's statement that he belongs to a racial, linguistic or religious minority shall be taken as sufficient evidence.[33]

OFFICIAL UNIVERSITY AGREEMENTS

One more type of international agreement concerning education is frequently used between official universities of different countries. The delegation of authority to the Minister of Public Instruction to enter with the Minister of Foreign Affairs into international agreements regarding educational relations is a procedure sometimes followed by governments having a national system of public education. An example of such delegation of power to a Minister of Public Instruction is found in the Royal Italian Decree of December 19, 1926, No. 2321, which makes provision for Italian professors to teach abroad and for foreign professors to teach in Italian institutions under certain conditions.[34] Official agreements under such authority

[33] *Permanent Court of International Justice, Decisions*, Series A, No. 15, April 26, 1928, Judgment No. 12, Rights of Minorities in Upper Silesia (Minority Schools).

[34] *Gazzetta Ufficiale*, January 22, 1927. The Royal Italian Decree of December 19, 1926, No. 2321, is in part as follows:

Exchange of University Professors with other countries.

Article 1. By decree of the Minister of Public Instruction, there may be placed at the disposal of the Minister of Foreign Affairs, professors on the roll of the Royal Universities, the Royal institutes of higher instruction and the Royal superior normal institutes, for teaching and for other scientific appointments in universities or higher institutes abroad . . . . .

Article 2. The Minister of Public Instruction may ask the universities and other free institutes and the superior normal schools which are at the disposal of the Minister of Foreign Affairs for the purposes of Article 1 of this decree, for professors of the universities and said institutes . . . . .

Article 3. The Minister of Public Instruction, with the approval of the

appear to have a binding force upon the respective governments, although these agreements do not follow all the formalities required for treaties.

The establishment in foreign countries of a series of French Institutes, usually with reciprocal arrangements, is perhaps the most outstanding of the many international agreements which have been entered into between official Ministries and universities. French Institutes have been founded in Bulgaria, Czechoslovakia, Estonia, Italy, Yugoslavia, Latvia, Poland, Portugal, Rumania and Spain. One has been established in Japan, thus making a co-operative link with the Orient. French Institutes have also been established in Argentina, Brazil, Chile, Mexico, Paraguay and Peru. The object of these Institutes is to provide a medium for interchange of courses dealing with the culture of the respective countries.[35]

Since the United States has no federal department of education it has been deterred from entering into official university agreements, but many individual universities, colleges and schools in the United States, as well as official and unofficial institutions of learning in other countries, follow the custom of making private arrangements for the employment of foreign teachers, the registration of foreign students and mutual recognition of degrees. The government of the United States, through its executive department, has power to make international agreements con-

Minister of Foreign Affairs, may authorize professors of foreign higher institutes to teach temporarily in the Royal universities and in the Royal superior institutes of the kingdom. For this purpose there shall be consent of the rectors and directors of the latter, with the approval of the Council of Professors of the competent faculties or schools . . . . .

Act of June 23, 1927, No. 1135, converted into law the above decree. *Gazzetta Ufficiale*, July 12, 1927, p. 2918.

[35] *University Exchanges in Europe, supra.* Information also from Division of Intellectual Co-operation, Pan-American Union, Washington, D. C. For a general article on educational agreements see *Conventions et Accords Intellectuels* by Margarete Rothbarth, La Co-opération Intellectuelle, Société des Nations, Institut International de Co-opération Intellectuelle, Paris, 2e année, No. 15, mars 15, 1930, p. 114; also *Les Conditions d'Emploi des Professeurs Etrangers*, par Etienne Lajti, La Co-opération Intellectuelle, *supra*, 2e année, No. 24, 15 décembre, 1930, pp. 619–628.

cerning educational relations with respect to federal jurisdiction, and, through the President with the advice and consent of the Senate, to enter into treaties and conventions with respect to the rights of aliens within the United States.[36]

[36]See Chapters I and IV of this booklet.

III. LEGISLATION RELATING TO ALIEN TEACHERS, WITH SPECIAL REFERENCE TO THE UNITED STATES

As each nation's sphere of action is circumscribed by jurisdictional limits, it is obvious that there are interests common to all for the preservation of which international co-operation is essential.[37]

One of the prerogatives of a sovereign nation is to determine the persons who shall come within its territory and the purposes for which admission shall be granted to foreigners. It is upon this principle of international law that immigration legislation is based.[38]

IMMIGRATION

The Congress of the United States, not only as the legislative instrument of the nation's sovereignty but also as the recipient of express authority in the Constitution of the United States to regulate commerce with foreign states and to make laws necessary and proper for carrying such power into execution,[39] has enacted immigration legislation which includes provisions relating to foreign professors.

The term "alien" is defined in the Immigration Act of February 5, 1917, which regulates immigration, as "any person not a native-born or naturalized citizen of the

[37]John Bassett Moore, *Digest of International Law*, Washington Government Printing Office, 1906, Vol. II, p. 466 *et seq* See also Chapter IV of this booklet.

[38]Note: Anglo-Saxon authorities usually recognize this right as absolute, yet it is not easily reconciled with the principle of co-operation and freedom of intercourse which the Continental theory claims as an international right, which, if need be, may be regulated by international agreements. "Repeated decisions of this court have determined that Congress has the power to exclude aliens from the United States, to prescribe the terms and conditions on which they may come in, to establish regulations for sending out of the country such aliens as have entered in violation of law, and to commit the enforcement of such conditions and regulations to executive officers, . . ." Turner v. Williams, 194 U. S. 289.

[39]U. S. Constitution, clauses 3 and 18, Section 8 of Article I.

United States; but this definition shall not be held to include Indians of the United States not taxed or citizens of the islands under the jurisdiction of the United States."[40] The Immigration Act of May 26, 1924, which limits immigration, defines "immigrant" as "any alien departing from any place outside the United States destined for the United States,"[41] with exceptions in favor of certain classes, called "nonimmigrant," such as government officials, aliens visiting the United States temporarily as tourists or for business or pleasure, seamen in pursuit of their calling, aliens in continuous transit, and aliens entitled to enter the United States solely to carry on trade under the provisions of a then-existing treaty of commerce and navigation. The Act of 1924 further divides immigrants into "quota" and "non-quota" classes, according to whether the alien must secure a quota number within the total allotted to the country of birth.

For purposes of the Immigration Act of 1924, nationality plays an important role and is determined by the country of birth, with some exceptions. If the alien teacher applying for admission to the United States was born in the Dominion of Canada, Newfoundland, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, he is admitted as a non-quota immigrant without regard to qualifications as a teacher, together with his wife and his unmarried children under eighteen years of age, if accompanying or following to join him, provided they are otherwise admissible.[42]

ALIEN PROFESSORS

If the alien professor applying for non-quota admission to the United States was not born in any of the above-

[40]39 U. S. Statutes at Large, 874; Section 1, Immigration Act of February 5, 1917.
[41]43 U. S. Statutes at Large, 153, Section 3, Immigration Act of 1924.
[42]Section 4 (c), Immigration Act of 1924, *supra*, as amended.

mentioned countries, he comes under another subdivision of the Immigration Act of 1924, which provides for professors as follows:[43]

> An immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of, carrying on the vocation of minister of any religious denomination, or professor of a college, academy, seminary, or university; and his wife, and his unmarried children under eighteen years of age, if accompanying or following to join him;

This last provision includes aliens ineligible to citizenship in the United States.[44]

Employment under contract is frequently arranged when an alien desires to enter this country to teach, but such contract does not bar his admission to the United States. Although prior to the Immigration Act of 1924, Congress had passed the Act of February 26, 1885,[45] prohibiting importation of laborers under contract, it was decided that the law applied only to the work of the manual laborer, as distinguished from that of the professional man.[46] The Act of February 5, 1917,[47] now controls the immigration of aliens under contract and specifies the classes exempt from its provisions. In it aliens occupying a professional status are specifically exempted from the provisions applicable to contract labor, and among the exempt classes enumerated are lecturers, professors for colleges and seminaries, and persons belonging to any recognized learned profession. But the Depart-

[43]Section 4 (d), Immigration Act of 1924, *supra.*

[44]Aliens racially ineligible to citizenship include those not white or of African nativity or descent, Section 2169, Revised Statutes, Chinese, Section 14, Act of May 6, 1882 (22 Stat. 58, 61); and those under any law amendatory of, supplementary to, or in substitution for, any of the foregoing, Section 28 (c), Immigration Act of 1924, *supra.* Section 13 (c) *Ibid*, provides that an alien racially ineligible to citizenship may be admitted as a non-quota immigrant under Section 4 (d) *Ibid.*

[45]23 U. S. Statutes at Large, 332.

[46]Church of the Holy Trinity v. United States, 143 U S. 457. For a later case see United States v. Union Bank of Canada, 262 Fed. 91.

[47]39 U. S. Statutes at Large, 874, as amended.

ment of Labor construes the contract labor law as applicable to teachers of high schools and does not exempt them. The statute exempts skilled labor, if otherwise admissible, if labor of like kind unemployed cannot be found in this country.[48]

The distinction between immigrant and nonimmigrant is important for alien teachers as well as for aliens in other walks of life, for one who enters the United States as an "immigrant" within the quota may establish permanent residence and then gain naturalization after complying with the usual statutory requirements. But one who enters temporarily as a "nonimmigrant," for instance, as a visitor for business or pleasure, or as a merchant trader under a treaty, is subject to the condition that he depart from the United States after a reasonable period from the date of original entry. A bond may also be required to insure maintenance of status while in the United States and ultimate departure from the country.[49] In practice so-called treaty aliens may remain so long as they maintain that status. Tourists or temporary visitors for business or pleasure, however, may not remain indefinitely although the law fixes no limit.

A visitor who enters for business may declare at the time of his admission that the business for which he is coming to the United States is teaching. Such a non-immigrant is, of course, unable to establish residence for purpose of acquiring citizenship in the United States. On the other hand, an alien professor who enters as a "non-quota immigrant" is permanently admitted to the United States provided no fraud attaches to entry. Although he was admitted solely for the purpose of teaching in the United States, he may change his voca-

[48]After full hearing and investigation by the Secretary of Labor, following application made in advance of the importation of the skilled labor.

[49]Section 15, Immigration Act of 1924, *supra*. See also Immigration Laws and Rules of January 1, 1930, Washington, Government Printing Office, 1929, Rule 3, Subdivision H, pars. 1 and 2, p. 124, and Rule 25, Subdivision C, pars. 1 and 2, pp. 181–182.

tion at any time, also provided no fraud attaches to this entry as a professor. He may be naturalized in the United States, if he complies with the regular statutory requirements for citizenship.[50]

In order to supplement the above-mentioned provisions relating to admission of alien professors, the following rules and regulations for the administration of those provisions of the Immigration Act of 1924 have been prescribed for consular officers by the Secretary of State upon the recommendation of the Secretary of Labor:[51]

135. "Professors" are defined by the Department of Labor as follows: The term "professor" as used in this section [Section 4 (d) of the Immigration Act of 1924] shall be construed to mean a person who is qualified to teach, and who, for two years immediately prior to applying for admission to the United States, has taught some recognized subject in an institution of learning which corresponds to a college, academy, seminary, or university, as these terms are understood in the United States, and who is coming to the United States solely for the purpose of carrying on such vocation here.
136. School teachers as the term is ordinarily used in the United States are not within this exemption.

The above definition of a "professor" for purposes of immigration was tested in a recent case[52] in which it was held that an alien who had attended two years at a foreign university and who, having been licensed to teach Greek in foreign high schools, taught in such schools for fourteen years prior to his attempted entry to the United States, was entitled to admission into the country as a non-quota immigrant, and that a private college preparatory school in this country which had employed such alien to teach Greek may properly be ranked as an academy. It was further held that he could not be refused admission because he was also to act as a church singer and

[50]Act of June 29, 1906, 34 U. S. Statutes at Large, 596, as amended.
[51]General Instruction Consular, No. 926, Diplomatic Serial No. 273, *Admission of Aliens into the United States*, Department of State, Government Printing Office, Washington, (1929), Rules 135 and 136, p. 51.
[52]United States, ex rel. Jacovides, et al. v. Day, 32 F (2d) 542.

a teacher of ecclesiastical music, as such facts do not preclude the view that he was entering solely for the purpose of carrying on his vocation of teaching, the incidental exercise of other talents being immaterial while teaching remains his vocation.

The definition of "professor" for purposes of non-quota admission to the United States does not always appear to accomplish the selection of qualified teachers. It has frequently happened that the determining test has resolved itself into whether the applicant has taught for a two-year period immediately preceding his application to enter the United States. Persons well qualified to teach have been refused admission when failing to meet this requirement. An experienced professor, having taught for many years, may have discontinued his professional work for a short time before applying for admission to the United States—he may have needed a rest, he may have spent the time travelling or even in study to increase his value as a teacher, but under the ruling of the Department of Labor, unless such teacher had "sabbatical" or special leave, thereby keeping his connection with the institution where he had last taught, he is excluded from entry into the United States as a non-quota immigrant. To wait for a quota number in some countries would mean a delay of years, so the American institution of learning which desired to employ him is forced to look elsewhere for a teacher to fill the vacancy on its faculty. Additional limitations exist, but space does not permit discussion of them.

On the other hand, the above two-year test, even though not based upon strictly academic standards, is a definite one for government officials to administer, and it undoubtedly keeps out of the country some poorly qualified teachers. For those who come within the definition, the law proves satisfactory, but it may be argued that the Immigration Act of 1924 bars many teachers qualified except for the arbitrary two-year test. It becomes expe-

dient for some of them to enter the United States under other provisions of the Act. This is often as unsatisfactory to the employing institution as to the foreign teacher himself, for it frequently necessitates subsequent compliance with government regulations, and leaves uncertainties as to the period of employment.

Due to the recent crisis in unemployment there has been an increasingly strict interpretation placed upon the provision in the Immigration Act of 1917, which excludes persons likely to become a public charge. A release by the White House on September 8, 1930,[53] announced that the Department of State had called a conference of consuls in the quota countries of Europe to consider the administration of this "public charge" clause in the light of existing conditions in the United States. The question has arisen in this connection as to the adequacy of terms in contracts held by foreign professors desiring to enter the United States.

In the employment of alien teachers private institutions seem to be favored by the regulations under the Immigration Act of 1924, for the reason that public schools of secondary grade are not included in the interpretation of "academy" and "seminary," although it would seem that these terms might be construed to embrace "high schools." In other words, Congress does not concern itself even indirectly with the admission of teachers for the secondary and primary public schools of the States, although State universities appear to benefit by the non-quota provisions when they wish to employ a foreign teacher coming to this country.[54]

[53] *Press Releases*, Weekly Issue No. 50, September 13, 1930, Publication No. 109, Department of State, Washington, D. C., p. 176.

[54] Note. See *Accredited Higher Institutions*, Bulletin, 1930, No. 19, and *Accredited Secondary Schools*, Bulletin, 1930, No. 24, Department of the Interior, Office of Education, Government Printing Office, Washington, D. C. A judicial interpretation of the meaning of "institution of learning" is found in the case of Chicago Business College v. Payne, 20 App. D. C. 606, 615, 30 W. L. R. 812, for purposes of the Act of Congress of July 16, 1894, as to second class mail: "The lower education, when it is not given

A group of American colleges, in order to place the non-quota admission requirements of foreign teachers coming to the United States upon a basis more in accordance with educational standards, sponsored a proposed amendment to the Immigration Act of 1924, which was introduced in the 70th Congress. In place of the time-test, the proposed amendment substituted three requirements: (1) proper qualifications to teach, (2) contract to teach for a definite period (3) in an accredited institution of learning. The bill passed the Senate and was discussed in detail at a hearing before a Subcommittee of the Committee on Immigration and Naturalization of the House of Representatives.[55] The colleges, however, failed to have the bill reintroduced in the succeeding Congress.

Not only American institutions of learning and foreign teachers themselves have experienced difficulty because of the present immigration provisions regarding the admission of alien professors, but a former Secretary of Labor recognized the fact that the Immigration Act of 1924 does not fully meet the educational needs of the country:[56]

by the State, or through religious organizations as a matter of benevolence, is usually left to individuals to be conducted as a business; while instruction in the higher branches of human knowledge is generally disseminated through those institutions of learning popularly known as such which owe their origin to private or public munificence and are established solely for the public good and not for private gain."

[55]70th Congress of the United States, 1st Session, Bill S. 2450, introduced January 9, 1928, by Senator David Reed of Pennsylvania, and H. R. 9284, introduced by Representative Bird J. Vincent of Michigan; see *Congressional Record*, February 23, 1928, Vol 69, No. 55, p. 3541. Also *Immigration of College Professors*, Hearing 70 1 7, before a Subcommittee of the Committee on Immigration and Naturalization, House of Representatives, Government Printing Office, Washington, D C., 1928.

[56]James J. Davis, Secretary of Labor, letter to Senator Johnson, Chairman of the Committee on Immigration of the Senate, March 24, 1928, in support of the general bill S. 3019, 70th Congress, 1st Session, in U. S. Daily, April 4, 1928. Note: Section 4, subsection 3 of S. 3019 proposed to give preference within the quota to members of any recognized learned profession, and subsection 4 to a quota immigrant in whose behalf the contract labor provisions of the immigration laws had been waived, etc , but such a proposed solution would seem to afford only a partial remedy for the problem of the alien teacher. It is observed that the Secretary of Labor apparently interpreted the proposed amendment to include the profession of teaching as one of the "recognized learned professions."

Other cases arise in which educational institutions in the United States desire the services of an alien as a teacher or a professor, and it so happens that such person, although fully qualified to fill the position involved, cannot meet the requirements of Section 4 of the Immigration Act of 1924, under which professors must have had two years' experience immediately preceding their entry before they can qualify as nonquota immigrants. In all such cases the applicant is entitled to enter the United States under contract, because specifically exempt from the contract-labor provisions of the general immigration law, but, of course, there must be a compliance with the quota-limit provisions, and as in most countries the quotas are pledged to previous applicants for two years or more, the perfectly legitimate needs of the American interests are defeated.

It is interesting to observe that countries other than the United States do not appear to have immigration legislation with provisions for the admission of foreign professors analogous to the two-year test of the Immigration Act of 1924 of the United States.[57]

INTERNATIONAL LAW RELATING TO TEACHERS

The bond which exists between a state and its citizen is not severed by the latter's departure from the national territory, but the state for most practical purposes yields control over its citizen abroad to the state in which he acquires a residence.[58] Under international law an alien, admitted to a country according to immigration provisions, thus placing himself under the jurisdiction of his new state of residence, must conform to the laws of that state, unless he belongs to a privileged group such as those in diplomatic service or those employed on a public vessel of a foreign state. An alien established within the United States, for example, in addition to rights under treaty provision, if any, has certain rights and obligations

[57]Letter from the Counselor of the French Embassy, Washington, D. C., to the writer, dated March 12, 1928; and letter from the Counselor of the German Embassy, Washington, D. C., to the writer, dated March 17, 1928.

[58]See *Diplomatic Protection of Citizens Abroad, supra*, pp. 344–347.

determined by federal and State laws. This includes general legislation which affects nationals and aliens alike, as well as legislation which especially concerns aliens.

In return for obedience to the laws of the country where he is established, an alien is entitled by the fundamental principle of international law, namely, good faith, to the protection of his person and property by the government of that country, and to the just administration of its laws as they relate to him. If there is discrimination against him which is not applied to aliens in general, if he is denied justice in the exercise of his rights as an alien, or if the municipal (national) laws regarding aliens fall below the level of the international standard in such respects, he is entitled to the diplomatic interposition of the state of which he is a national. The latter state then may replace the state of residence as the agent for enforcing international law.

Territorial sovereignty gives a nation the authority to make laws concerning immigration and to determine policies as to the treatment of foreigners who come within its boundaries for travel, sojourn, trade or other reasons. A nation may declare its policies with respect to citizens and aliens by means of a constitution, statutes, treaties, or executive proclamations, and provisions under all of these categories are subject to interpretation by the courts.

As a guaranty of rights granted to foreigners within their territories, some countries adopt the principle of national treatment, *i. e.*, complete equality between the rights enjoyed by nationals and those granted to foreigners; other countries adopt the principle of most-favored-nation treatment, which, unless coupled with that of national treatment, implies as a rule that certain terms of the former may differ from those of the latter. The guaranty of reciprocal treatment is often claimed by states wishing either to obtain guaranties similar to those they offer, or to limit the latter to the counterpart of those offered by another country also a party to such a treaty.

A draft convention to remove discriminations against persons carrying on business and professions in countries of which they are not nationals was discussed by representatives of fifty nations in Paris on November 5, 1929.[59] The proposed convention, which had been prepared by the Economic Committee of the League of Nations, reserved to the states of residence power over the admission and expulsion of foreigners in the manner sanctioned by ordinary usage and police measures. Otherwise the convention proposed to guarantee generally to foreigners the same treatment as that given to nationals with respect to the legal and judicial protection of their persons, property rights and interests, the same civil and legal rights, fiscal treatment and protection by fiscal authorities and tribunals, the right to acquire, possess, lease, and sell property, movable and immovable, together with rights of bequest and succession, and the same treatment in the exercise of trade, profession or other economic occupation, with a few exceptions in the case of certain professions which entail special responsibilities in the public interest.[60]

Is there international law for the practice of the teaching profession? If aliens have rights under international law

[59] *Preparatory Documents, International Conference on the Treatment of Foreigners*, Draft Convention, Article 7, 1 (b), 2 (b), League of Nations, November 5, 1929, League of Nations Publications, Economic and Financial, 1929, II, 5, Geneva, pp. 4, 18, and *Proceedings of the International Conference on Treatment of Foreigners*, First Session, Paris, November 5–December 5, 1929, League of Nations, 1930, II, Geneva, pp 427, 428.

[60] Note. The draft convention provided that foreigners be granted exemption from judicial or administrative charge or duty, from compulsory military service, contributions and exactions imposed in lieu of personal services. These proposed equal privileges and special exemptions caused comment to the effect that, if foreigners enjoyed all the privileges of citizens, they ought not to expect to have the governments of the countries of which they are nationals insist upon the privilege of choosing international jurisdiction to decide controversies which might arise between the foreigners and nationals of the countries where the former are doing business. International law permits a government to protect by interposition the rights of its nationals in foreign countries, and under some circumstances a resident foreigner has more privileges than a citizen. See *The Protection of Acquired Private Rights of Foreigners in International Law*, Stephen de Szászy, Report of the Thirty-sixth Conference, The International Law Association, held at New York, September 2 to 9, 1930, Sweet & Maxwell, Ltd., 1931, London, England, p. 583.

to practice the profession of teaching, these rights must be in conformity with the general principles adopted and enforced by the family of nations. If rights to teach are not secured to aliens under international law, through constitutional, statutory, or treaty provisions, the general custom of nations regarding foreign teachers must be examined for indications of the status, rights and obligations of such teachers.

CODIFICATION

Steps preparatory to the codification of international law regarding foreign teachers have been taken by the nations of the American continents. A resolution for the interchange of professors and students was adopted at the Fourth International Conference of American States at Buenos Aires, August 18, 1910.[61] Proposals for the codification of international law for the American Republics were elaborated by the American Institute of International Law in collaboration with the Pan-American Union,[62] and included a draft convention on the Interchange of Professors and Students.[63] With a few changes it was designated as No. VI of the projects of the International Commission of Jurists and was submitted for the consideration of the Sixth International Conference of American States held at Havana, January 16 to February 20, 1928. The text of the proposed convention is as follows:[64]

[61] *Fourth International Conference of American States*, Senate Document No. 744, 61st Congress, 3d Session, Washington, 1911, p. 226.

[62] American Institute of International Law, Project No. 25, American Journal of International Law, Vol. 20, Special Supplement, October, 1926, p. 359.

[63] *Collaboration of the American Institute of International Law with the Pan-American Union*, Remarks of the Hon. Charles E. Hughes, American Journal of International Law, Vol. 20, Special Supplement, October, 1926, p 279 *et seq.*

[64] *Public International Law*, International Commission of Jurists, Pan-American Union, U S. Government Printing Office, 1927, Washington, D. C., p. 16. See also *The Gradual and Progressive Codification of International Law*, James Brown Scott, *supra*, p. 859.

INTERCHANGE OF PROFESSORS AND STUDENTS

ARTICLE 1

The universities, preparatory schools, and colleges existing in the different American States, whether of an official character or due to private initiative, may establish between them interchanges of professors and students on the following bases:

(a) The institutions mentioned shall grant all necessary facilities in order that the professors whom they receive from one another may hold classes or lectures;

(b) These classes or lectures shall treat principally of scientific matters which are of interest to America, or which relate to special conditions of one or several countries of America, particularly that to which the professor belongs;

(c) Every year the institutions mentioned shall communicate to those with whom they desire to make an exchange of professors, the subjects to be treated of in their classes for foreign professors;

(d) The remuneration of the professor shall be paid by the institution which has appointed him, unless his services shall have been expressly requested, in which case his remuneration shall be borne by the institution which invited him;

(e) The institutions shall determine annually the amount intended to cover the expenses of the interchange of professors, either from their own budget or by special aid obtained from the Government of their country.

ARTICLE 2

The universities, preparatory schools, or colleges, both official and unofficial, shall create scholarships for the students of other countries, with or without reciprocity, adopting directly or through their Governments the necessary measures for the distribution of these scholarships.

Each institution shall appoint a commission charged with supervising the students holding scholarships, to direct them in their studies and in the performance of their obligations.

ARTICLE 3

The universities, both official and private, shall endeavor to meet periodically in congresses in order to establish better means of intellectual co-operation.

The above draft was taken under advisement by the Committee on Intellectual Co-operation, which incorpo-

rated the principle of interchanges of professors and students into the resolution for the establishment of the Inter-American Institute of Intellectual Co-operation.[65]

The Inter-American Congress of Rectors, Deans and Educators held at Havana February 20–23, 1930, established the Inter-American Institute, which will work out among other problems, educational interchanges.[66] Government action was urged in the suggestion attached to Topics 5, 6, 7, and 8 of the section on Intellectual Co-operation of the agenda of the Sixth International Conference of American States and submitted to the Inter-American Congress of Rectors, Deans and Educators, as follows:

> 13. That recommendation be made to the governments, members of the Pan-American Union, that, either by adhering to the convention for the practice of liberal professions adopted at the Conference of Mexico, or by special conventions, they establish and promote the interchange of professors and students.

In the Organic Act of the Inter-American Institute of Intellectual Co-operation, which resulted from the above Congress, is section (b) 4 of Article II:

> The functions of the national councils [of the Institute] shall be:
>
> * * * *
>
> 4. To endeavor to secure the adherence of their respective countries to international agreements and programs of intellectual co-operation.[67]

[65]Report of the Delegates of the United States to the *Sixth International Conference of American States* held at Havana, Cuba, 1928, Government Printing Office, Washington, D. C., pp. 9, 37, 39, and Appendix 65.

[66]*Report of the Chairman of the Delegation of the United States of America*, Inter-American Congress of Rectors, Deans and Educators in General, Havana, Cuba, February 20–23, 1930, Government Printing Office, Washington, 1931.

[67]*Documentary Information* for Delegates, Inter-American Congress of Rectors, Deans and Educators, *supra*, p. 22. *Inter-American Congress of Rectors, Deans and Educators*, Creation of Inter-American Institute, *supra; Acta Final del Primer Congreso Pan-Americano de Rectores, Decanos y Educadores*, La Habana, Republica de Cuba, p. 9.

EDUCATIONAL SYSTEMS

A nation decides what rights and obligations of citizens and aliens within its territory shall come under its national control, and which ones, if any, shall come under the direction of its political divisions. Thus, as to public education, many countries have organized systems under entire or partial control and direction of their respective national governments through Ministries of Public Instruction, while other countries have a decentralized system of education.[68]

France may be taken as an example of national system of public education, with its government universities, government schools of secondary and primary grades, government licenses to teach and programs of instruction. Among the countries which do not have a national department of education are the United States of America, the British Commonwealth, Australia, Canada, India, Arabia, Germany, Switzerland and the Union of Soviet Socialist Republics.

As to the United States of America, in addition to the policies with respect to foreign teachers herein discussed under treaties, the Constitution of the United States and immigration acts of Congress, the federal government takes active part in certain educational matters. The Bureau of Education has recently completed a reorganization and is now officially known as the Office of Education, Department of the Interior, with the following major divisions of work: administration, educational research of national and international scope, publications, library service, educational service and major educational surveys. Among other agencies of the federal government dealing with education is the Federal Board for Vocational Education; the Department of Agriculture carries on extension work in agriculture and home economics; Land Grant Colleges receive certain federal subsidies; and the

[68] *National Ministries of Education*, James F. Abel, Office of Education, United States Department of the Interior, Bulletin 1930, No. 12, United States Government Printing Office, 1930, Washington, D. C.

Department of Labor, through the Bureau of Naturalization, co-operates with the public schools in the citizenship training of candidates for naturalization. The federal government maintains a public health service, and disseminates information on economics and trade, child welfare, and women in industry, besides performing other services of educational value. The Departments of State, War, Navy, Commerce and Agriculture have their foreign services. Under direction of the government are the United States Military Academy and Naval Academy, the Army War College, Howard University for Negroes, schools for Indians, and schools in Alaska.[69] Although the national government spends money for education and aids in its development, and although nearly every executive department carries on educational activities, education in general in the United States is neither administered, supported nor controlled by the national government, but is under the direction of each separate State as far as the interests of the State are concerned.[70]

LEGISLATION IN COUNTRIES OTHER THAN THE UNITED STATES

More than twenty-nine countries have concluded treaties relating to foreign teachers. It is interesting to observe also a few constitutional provisions and some municipal (national) legislation in foreign countries. The range of equal, reciprocal and exclusive treatment of foreign teachers is covered.

The Constitution of the Argentine Republic contains Article 20, which is as follows:[71]

[69]See respective headings in *The Code of Laws of the United States of America*, Vol. 44, Part 1, U. S. Statutes at Large, 69th Congress, 1925–1926, Government Printing Office, Washington, 1926.

[70]Note: A number of bills have been introduced into Congress for the purpose of creating a Federal Department of Education with a Secretary of Education in the President's Cabinet. See *Federal Relations to Education, supra.*

[71]Argentine Republic, Constitution of 1868, Original Text, *Recopilacion de Leyes Usuales* de la Republica Argentina, Buenos Aires, 1907, p. 4, also Law No. 346, of October 8, 1869, *Ibid*, p. 29.

Foreigners shall enjoy in the territory of the nation all the civil rights of citizens. They may carry on their industry, commerce, or profession; own real estate, buy and sell it; navigate the rivers and coasts; exercise their religion freely; make wills, and marry, in conformity with the laws. They are not obliged to acquire citizenship, nor to pay extraordinary compulsory taxes. They may become naturalized by residing two years continuously in the nation; but authorities may curtail this period in favor of one who requests it on the strength of services proven to have been rendered to the Republic.

It is provided that foreigners may be naturalized, whatever the period of their residence, if they declare their desire to be naturalized before the federal district judge and prove before the judge that they have practiced the vocation of teacher in the country in any branch of education or industry.

Reference has already been made to the Royal Italian Decree of December 19, 1926, No. 2321, which provided for interchange of professors between Italian and foreign universities under the direction of the Ministers of Public Instruction and of Foreign affairs.[72] An Italian Regulation, 2480, approved December 9, 1926,[73] on state examinations and competitions for teachers, provided for the admission of foreigners to the same, on two conditions, that—

(a) there be reciprocal treatment on the part of the country of origin of the foreign candidates, and

(b) the Royal Ministry for Foreign Affairs authorize the appointment of such foreign teachers, if accepted after said examination.

An oath of allegiance to the Fascist régime is now required of all Italian university professors. It is reported that certain Italian professors refused to take the oath.[73a]

Austria has the Federal Law of June 8, 1928, concerning citizenship, which provides:[74]

[72]See Chapter II.

[73]Information from the Counselor of the Italian Embassy in a letter to the writer, dated Washington, D. C., March 15, 1928.

[73a]*Time*, Inc., 350 East 22d Street, Chicago, Ill., December 28, 1931.

[74]British Parliamentary Papers, Misc. No. 7, 1928, 3.

The loss of provincial citizenship does not follow in the event of a provincial citizen taking up the post of university teacher in another country, if, according to the prevailing laws of the country concerned, the taking up of a university (Hochschule) post does not *ipso facto* confer citizenship of that country.

The Austrian Federal Constitutional Law No. 272 of July 30, 1925, provides that by entering upon the public office of instructor in a domestic higher institution of learning, a foreigner acquires state [provincial] citizenship in that state in which the institution of learning is situated and at the same time acquires *Heimatrecht* [membership in a community] in the locality where he exercises his office. Under Austrian law, provincial citizenship carries with it the acquisition of Austrian federal citizenship, and Federal Law No. 385 of July 30, 1925, states in Paragraph 3 (2) (b) that provincial citizenship is acquired by foreigners by taking public office as a teacher at a provincial university (*Hochschule*).[75]

The German law of Nationality of July 22, 1913, Section 14, provides as to citizenship in a federal state:[75a]

> Appointment either made or confirmed by the government or by the central or higher administrative authorities of a state to a position in the direct or indirect service of the state, in the service of a municipality or a municipal association, in the public school service or in the service of a religious society recognized by one of the federal states, counts in the case of a German as assumption and in the case of a foreigner as naturalization, except in so far as reservation is made in the instrument of appointment or confirmation.

CITIZENSHIP STATUS OF TEACHERS

Citizenship as a prerequisite to qualification for a teaching position in the public school system is not demanded in countries which provide treatment for

[75]Federal Laws of Austria No 272 and No. 285 of July 30, 1925, *A Collection of Nationality Laws* of Various Countries as contained in Constitutions, Statutes and Treaties, Edited by Richard W Flournoy, Jr., and Manley O Hudson, Oxford University Press, 1929, New York, pp 17, 18.
[75a]*A Collection of Nationality Laws, supra*, p. 308.

foreigners on an equality with nationals; in other states the waiver of the requirement of citizenship for teachers depends upon reciprocal treatment by the state of which the teacher is a national; some governments go to the extreme of denying permanent appointment to any foreign teacher; while a few have laws providing that the mere act of rendering a public service, such as teaching, confers citizenship upon the person so giving it or facilitates the process of naturalization. On the other hand, the laws of a few countries provide that if a national practices the teaching profession in a foreign country, citizenship status in the home state is thereby forfeited. Still others make such loss of citizenship contingent upon whether the national, under the laws of the state in which he teaches and by the mere act of teaching, acquires citizenship in the foreign state.

In the United States there is no federal diploma or license permitting qualified persons to teach in the public schools of any State, but all States of the Union have their respective legislation prescribing a State certificate to teach, a requirement which frequently prevents the employment of foreigners.[76] No federal law in the United States debars aliens from teaching in public schools of any State, but some States of the United States have legislation prohibiting the employment of aliens in their respective public school systems.

Restrictive laws as to citizenship status of teachers in certain States of the United States may be briefly summarized as follows:[77]

1) States requiring citizenship of the United States for teachers in the public schools, including the State Universities,

[76]Note: The requirement of State examinations and State licenses to teach presents practical difficulties, not only in the employment of foreign teachers but also in arranging exchanges of American teachers between two or more States of the United States.

[77]Information from the Office of Education, Department of the Interior, Washington, D. C., June, 1931. Note: The District of Columbia requires an oath of allegiance of public school teachers. The Territory of Hawaii since 1930 has required citizenship of public school teachers.

are Arizona, Nebraska, Nevada, South Dakota, and Tennessee. New Jersey requires citizenship, but exempts certain teachers of foreign languages.

2) States requiring citizenship of the United States, or declaration of intention to become a citizen, are California, Idaho, Missouri, Montana, New York, North Dakota, Texas, and Washington. Michigan requires citizenship or a declaration of intention, but provides that citizens of foreign countries may be employed for limited periods as instructors or lecturers.

3) States requiring an oath of allegiance to the United States are Colorado, Indiana, Ohio, Oklahoma, Oregon, and West Virginia.

Examples of these laws may be of interest. First, some State laws requiring citizenship:

State of Nevada, The School Code, 1923, p. 134. *All teachers must be United States citizens* Act of March 26, 1915, . . . Section 2. It shall be unlawful for the superintendent of public instruction, regents of the State university or school trustees to engage or hire any president, superintendent, teacher, instructor, instructress, or professor in any of the educational departments of this State who is not a citizen of the United States.

State of New Jersey. Supplement to the School Law of October 19, 1923, Chapter 239, Approved April 3, 1928 All permanent teachers employed in any of the free public schools in the State of New Jersey for nine months in each year shall be citizens of the United States of America. No person shall hereafter be employed or appointed a permanent teacher in any of the free public schools in this State who is not at the time of such employment or appointment such citizen of the United States of America and all permanent teachers employed at the time of the passage of this act who are not such citizens shall be required to become citizens of the United States of America and their failure to comply with the provisions of this act shall be sufficient cause for their dismissal; *Provided, however*, this act shall not apply to a teacher of foreign languages unless such teacher has been a resident of the United States for ten or more years.

Private and parochial schools as well as public schools are included in the following statute of Nebraska:

State of Nebraska, Section 6456, Compiled Statutes, 1922.

House roll, No. 106, Session Laws, 1919. *Aliens disqualified to teach.* That no person shall be qualified, licensed or permitted by the State or county superintendents of public instruction to teach in any public, private and parochial school in the State of Nebraska unless such person is a natural born or duly naturalized citizen of the United States.

Second, an example of a State law requiring either citizenship or a declaration of intention to become a citizen:

State of Idaho, Session Laws, 1921, Section 77, Chapter 215, Approved March 5, 1921. *Certificates not granted to aliens.* No person shall be granted a certificate or employed as a teacher in any public school, who is not a citizen of the United States or who has not declared his intention to become such: *Provided*, that when such certificate to teach in the public schools in the State shall have been issued to any person who shall not within seven years become a citizen, such certificate shall be automatically revoked, and such person shall be ineligible to receive a certificate until he becomes a fully naturalized citizen.

Third, an example of a State law requiring an oath of allegiance:

State of Indiana, Session Laws, 1929, Chapter 16, Approved February 21, 1929. An act prescribing the oath or affirmation to be taken and subscribed to by professors, instructors and teachers in public schools, colleges and universities of this State.

Public Schools—Teachers, Oaths and Affirmations of Allegiance by: Section 1. Be it enacted by the general assembly of the State of Indiana, That every person who applies for a license, or any renewal thereof, to teach in any of the public schools of this State, shall subscribe to the following oath or affirmation: *I solemnly swear* (or affirm) *that I will support the Constitution of the United States of America, the Constitution of the State of Indiana and the laws of the United States and the State of Indiana, and will, by precept and example, promote respect for the flag and the institutions of the United States and of the State of Indiana, reverence for law and order and undivided allegiance to the government of the United States of America.* [*Italics supplied*]

Such oath or affirmation shall be executed in duplicate and one copy thereof shall be filed with the State superintendent of public instruction at the time when the application for a

license is made and the other copy shall be retained by the person who subscribed to such oath or affirmation. No license shall be issued unless such oath shall have been filed.

Universities and Normal Schools, Public—Professors, Instructors and Teachers. Section 2. Every professor, instructor or teacher who shall be employed hereafter by any university or normal school in this State which is supported in whole or in part by public funds, shall, before entering upon the discharge of his or her duties, subscribe to the oath or affirmation as prescribed in section 1 of this act, before some officer authorized in law to administer oaths . . .

Aliens, Oath to Support Institutions and Policies of United States. Section 3. Any person who is a citizen or subject of any other country than the United States, and who is employed in any capacity, as a professor, instructor or teacher in any university or normal school in this State which is supported in whole or in part by public funds, shall, before entering upon the discharge of his duties, subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within this State.

The States of Colorado, Ohio, Oklahoma and Oregon require teachers in private and parochial schools as well as in public schools to take an oath of allegiance. Oregon excepts temporary exchange teachers.

OATH OF ALLEGIANCE

What is the effect upon the citizenship status of a foreigner when he takes an oath for the purpose of obtaining a position to teach in those States of the United States requiring an oath? Certain States of the United States require an oath of teachers, some of these States including teachers in private and parochial as well as in public schools. A distinction is to be noted between an oath of allegiance and an oath taken merely for the faithful performance of certain civil duties.

An oath of allegiance taken in accordance with the laws of a State of the United States does not, under the naturalization laws of the United States, confer federal citizenship upon the person taking such oath. Naturalization in the United States is a process under federal statutory pro-

visions which demands of the applicant various steps in addition to the taking of the oath of allegiance required by the naturalization laws.[78]

The oath of allegiance for purposes of naturalization in the United States is as follows:[79]

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to . . . . . of whom (which) I have heretofore been a subject (or citizen); that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any mental reservation or purpose of evasion: So help me God. In acknowledgment whereof I have hereunto affixed my signature.

Compare this oath with the oath required by the State of Indiana of teachers in the public schools of that State:

OATH OF ALLEGIANCE

For Naturalization in the United States	*For Teaching in the Public Schools of Indiana*
1. Oath taken and subscribed to in open court, which includes—	Oath (or affirmation) subscribed to and filed with the State Superintendent of Public Instruction, which includes—
2. Renunciation and abjuration of all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and particularly to (mentioning name) of whom (which) he has heretofore been a subject (or citizen)	
3. Support of the Constitution and laws of the United States of America	Support of the Constitution of the United States of America, the Constitution of the State of Indiana and the laws of the United States and the State of Indiana
4 Defense of the Constitution and laws of the United States of America against all enemies, foreign and domestic	

[78]Act of June 29, 1906, 34 U. S. Statutes at Large, 596, as amended. See Title 8, Chapter 9, United States Code, Vol. 44, Part 1, p 156, *et seq.*

[79]Subd. 3, Sec. 4, Act of June 29, 1906, *supra*, as amended, Rule 8, Subd. C, Par. 1, Naturalization Rules and Regulations, July 1, 1929, Washington, Government Printing Office (1929), p. 81.

5. True faith and allegiance to the same	Promotion, by precept and example, of a) respect for the flag and institutions of the United States and of the State of Indiana, b) reverence for law and order and c) undivided allegiance to the government of the United States of America
6. Obligation freely taken without any mental reservation or purpose of evasion[80]	

Aliens entering upon the duties of teaching in Indiana in any university or normal school which is supported in whole or in part by public funds, must subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within the State.

Although a foreigner who takes the above or a similar oath of allegiance for the purpose of teaching in a public school within a State of the United States requiring such oath does not acquire citizenship of the United States, yet the question arises whether, by taking such an oath, he would lose his citizenship status in the country of which he has been a national. This depends upon the law of the latter country. His willingness to subscribe to such oath demanded of teachers may well be influenced by the possible result of his becoming a man without a country.

A foreign professor who had been teaching in one of the large universities of the United States applied recently for naturalization in the United States, but refused to take the above oath required for naturalization in so far as it might require him to bear arms in some war he might believe unnecessary or unjust. Mr. Justice Sutherland in rendering the opinion of the United States Supreme Court said that it is not within the province of the courts to make bargains with those who seek naturalization. "They must accept the grant and take the oath in accordance with the terms

[80]See "*Attachment to the Principles of the Constitution*" as *Judicially Construed in Certain Naturalization Cases in the United States*, by Henry B. Hazard, American Journal of International Law, Vol. 23, No. 4, October, 1929, pp. 783–808.

fixed by law, or forego the privilege of citizenship. There is no middle choice. If one qualification of the oath is allowed, the door is opened for others, with utter confusion as the probable final result." In a dissenting opinion Mr. Chief Justice Hughes said that the general words of the statutory provision as to the oath for naturalization have not been regarded as implying a promise to bear arms notwithstanding religious or conscientious scruples. He compared the oath for naturalization with the oath required by act of Congress of civil officers generally, except the President, which oaths he finds the same in substance.[81]

Comparison is also interesting between the above oaths and the oath of allegiance to the United States required by the Department of State under rules prescribed by the President for the issuance of a passport. The rules do not specifically call for an oath to adhere to and uphold the Constitution of the United States, but the latter is included in the form generally used in an application for a passport of the United States, as follows: "Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion: So help me God."[82]

What would happen to the nationality of an American citizen who goes abroad to teach and is confronted, in the foreign country in which he desires to teach, with a law requiring an oath of allegiance to that country? The answer is found in Section 2 of the Act of March 2, 1907,[83]

[81]The United States v. Douglas Clyde Macintosh, 283 U S., 605, citing general oath of office as prescribed in Revised Statutes, Sec. 1757, Title 5, United States Code, *supra*, Sec 16.

[82]*Passport Regulations*, Executive Order, January 31, 1928, Rules governing the Granting and Issuing of Passports in the United States, Government Printing Office, Washington, 1928, quoting Section 1 of the Act of July 3, 1926, 44 U S Statutes at Large, 887, and Section 4078 Revised Statutes as amended by the Act of June 14, 1902, 32 U. S. Statutes at Large, 386.

[83]34U. S. Statutes at Large, 1228.

which states that any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state.

In 1884 a letter from John Davis, then Acting Secretary of State,[84] explained that, under a regulation of Great Britain operative in Canada, Americans taking public employment in the Dominion, such as teaching in the schools, were required to take a qualified oath of allegiance to Her Britannic Majesty binding only so long as such employment continued, and that such oath was not held by the government of the United States nor was it claimed by that of Great Britain to interfere in any way with allegiance to or citizenship in the United States. It is understood that the Department of State adheres to the same policy at the present time. It is interesting to consider whether the following oath if taken in Canada after the Expatriation Act of March 2, 1907, causes loss of citizenship: "I . . . . . hereby swear that, while holding any office as teacher in the public schools of the Province of Manitoba, I will be faithful and bear true allegiance to His Majesty, King George, the Fifth, his heirs and successors, according to law. So help me God."[85] The Department of Labor, it is understood, places a strict interpretation upon oaths taken in foreign countries even though such oaths are qualified as applying only to the performance of certain civil duties.

Will the Senators from the States of the United States which now require citizenship of the United States, a declaration of intention to become a citizen, or an oath of

[84]Moore, *Digest of International Law*, *supra*, Vol III, p. 722, quoting from letter of Mr Davis to Mr. Barnett, Consul at Paramaribo, August 20, 1884, 111 MS. Inst. Consuls, 413

[85]Note. There is no statute requiring a person teaching school in the Dominion of Canada to take an oath of allegiance to Canada but the above oath is prescribed in a Departmental regulation which is based upon a resolution passed by the Advisory Board of Education at a meeting held on February 22, 1917. Information from the Department of State of the United States.

allegiance from all teachers in the public schools of their respective States, give their consent to a convention which provides for the practice of the teaching profession by foreigners in the United States? No constitutional reason exists why the Senators from these States could not vote for such a treaty, if the treaty is believed to be in accordance with public policy. The majority of States of the United States always permitted the employment of qualified foreign teachers within their respective boundaries and, therefore, would seem to merit the benefits of a treaty concerning international education.

The dates are significant when the above prohibitive State statutes against the employment of foreign teachers were enacted:—in the year 1915, one; in 1919, four; in 1921, seven; in 1922, one; in 1923, one; in 1925, two; in 1927, one; in 1928, one; in 1929, two; and one in 1931. The World War seems to have instigated this restrictive State legislation.

LEGISLATIVE LIMITS OF STATES OF THE UNITED STATES

How far can a State of the United States go constitutionally in the enactment of measures concerning education?

An attempt by a State to force by legislation the attendance of pupils in public schools within the State to the exclusion of attendance in private schools was held unconstitutional by the United States Supreme Court, which said in part:[86]

> . . . we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control. As often heretofore pointed out, rights guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the State. The fundamental theory of liberty upon which all

[86]Pierce, Governor of Oregon, et al. v. Society of Sisters, and Pierce, Governor of Oregon et al. v. Hill Military Academy, 268 U. S. 510, 534, discussing The Compulsory Education Act, State of Oregon, Nov. 7, 1922, Oregon Laws, Section 5259.

governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.

A State law forbidding, under penalty, the teaching in any private, denominational, parochial or public school, of any modern language, other than English, to any child who had not attained and successfully passed the eighth grade, was declared by the United States Supreme Court to be an invasion of the liberty guaranteed by the Fourteenth Amendment and an over-reaching of the power of the State. In its opinion the Court said that the State may do much, go very far, indeed, in order to improve the quality of its citizens physically, mentally and morally, but that the individual has certain fundamental rights which must be respected.[87]

Do those States which preclude the employment of alien teachers in all public, private and parochial schools within their respective territories, invade the liberty of individuals guaranteed by the Constitution in the Fourteenth Amendment, as to choice of instruction? It does not appear that such a law has yet been tested in the courts.

State legislatures in the United States are not unrestricted in their control over educational matters. The federal government, though it may not exercise direct legislative control over educational policies of the States, does through its judiciary act as a deterrent against, and may even annul, arbitrary or unreasonable State laws concerning education, if the State laws are not in accord-

[87]Meyer v. Nebraska, 262 U. S. 390, 401. See also Bartels v. Iowa, 262 U S 404. Note: An infringement of the Fifth Amendment of the U. S. Constitution was declared by the U. S Supreme Court in Farrington, Governor of Hawaii, et al. v. Tokushige et al , 273 U S 284, a case involving certain Acts of the Legislature of Hawaii relating to foreign language schools and the teachers in them, as well as regulations adopted under the Acts by the Department of Public Instruction of Hawaii.

ance with the Constitution of the United States. If the United States should become a party to a convention on international aspects of the teaching profession, and if thereafter certain States should attempt to enforce State statutes prohibiting employment of foreign teachers within their territories, the conflict between the treaty provisions and the State statutes not in compliance therewith would be a matter for the federal courts. Judicial decisions appear to have established, under analogous conditions, the principle of supremacy of treaties, according to Article VI of the Constitution of the United States.

IV. TREATY-MAKING POWER OF THE UNITED STATES

All treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land. *Constitution of the United States, Article VI.*

National systems of education under government direction have undoubtedly made it easier for nations with such a system to join in conventions on the international interchange of teachers, the practice of professions and equivalence of degrees, but the fact that the United States has no national system of education does not bar it from becoming a party to a convention concerning international education.[88]

TREATY MAKING

Congress does not have the power to make treaties, but the Senate must give its consent to the ratification of treaties before they can come into force. The Senate thus has a direct check on the conduct of certain foreign affairs.

The States of the United States cannot enter into treaties on any subject whatever, except as provided in Section 10, Article I, of the Constitution of the United States, which stipulates that no State shall, without the consent of Congress, enter into any agreement or compact with another State, or with a foreign power. The Constitution makes no direct reference to the subject of education, but the Tenth Amendment declares that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. This explains the decentralization in the United States of the public educational system.

[88]Note: Some research material in "The Foreign Teacher" was prepared by the writer in partial fulfillment of requirements for the degree of Master of Arts at the Graduate School, American University, Washington, D. C., and is used with permission.

The President of the United States has the power to make treaties, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur. The Constitution of the United States delegates this authority to the President in Section 2, Article II, in addition to the treaty-making power which is inherent in him as the chief executive of a sovereign nation.[89] As to limitations on the power of the President to make treaties, it has been said by the Supreme Court that the treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or of its departments, and those restraints arising from the nature of the government itself and of that of the States.[90]

TREATY RIGHTS OF ALIENS

In order to determine whether the United States can enter into a convention dealing with the rights of aliens to teach, it is pertinent to inquire what rights have already been granted by treaty to aliens in the United States. The Supreme Court of the United States made the following pronouncement with respect to the subject of a treaty:[91]

> . . . But a treaty may also contain provisions which confer certain rights upon the citizens or subjects of one of the nations residing in the territorial limits of the other, which partake of the nature of municipal law, and which are capable of enforcement as between private parties in the courts of the country. An illustration of this character is found in treaties, which regulate the mutual rights of citizens and subjects of the contracting nations in regard to rights of property by descent or inheritance, when the individuals concerned are aliens. The Constitution of the United States places such provisions as these in the same category as other laws of Congress by its declaration that "this Constitution and the laws made in pursuance thereof, and all treaties made or which shall be made under authority of the United States, shall be the supreme law of the land." A treaty, then, is a law of the land

[89]Moore, *Digest of International Law*, *supra*. Vol. V, pp. 155–179.
[90]Geofroy v. Riggs, 133 U. S. 258, 267.
[91]Head Money Cases, 112 U. S. 580, 598.

as an act of Congress is, whenever its provisions prescribe a rule by which the rights of the private citizen or subject may be determined. And when such rights are of a nature to be enforced in a court of justice, that court resorts to the treaty for a rule of decision for the case before it as it would to a statute.

An important decision was recently handed down by the Supreme Court in a case which interpreted provisions regarding inheritance tax in the treaty between the United States and Denmark, signed April 26, 1826, which provisions were renewed by the Convention of April 11, 1857.[92] The Court, in deciding that the above treaty prevailed over Section 7315 of the Code of Iowa (1927) which imposed an inheritance tax upon a subject of Denmark where under similar circumstances the estate would pass tax-free to an American citizen, said:[93]

> . . . and as the treaty-making power is independent of and superior to the legislative power of the States, the meaning of treaty provisions so construed is not restricted by any necessity of avoiding possible conflict with State legislation and when so ascertained must prevail over inconsistent State enactments.

Provisions similar to those in the above-mentioned Danish treaty are found in a number of conventions to which the United States is a party.[94]

Property and commercial rights, as well as the rights to reside and to perform labor, have been secured to aliens under treaties to which the United States has become a party. The United States has included, as a privilege of residence granted to aliens by treaty, the right to labor, and such provision has been upheld by courts against inconsistent State legislation. A number of cases involved Article VI of the treaty of July 28, 1868, between the United States and China[95] which provided for reciprocal

[92] 8 U. S. Statutes at Large, 340, 342, and 11 U. S. Statutes at Large, 719, 720.

[93] Jens C. Nielsen, Administrator, v. R. E. Johnson, Treasurer of the State of Iowa, 279 U. S. 47, 52.

[94] See *Exemption of Aliens from Taxation*, William R. Vallance, American Journal of International Law, April, 1929, Vol. 23, No. 2, pp 395–398.

[95] 16 U. S. Statutes at Large, 740.

treatment of citizens or subjects of one country residing in the other. The following is an illustration:[96]

> If it [the treaty-making power] has authority to stipulate that aliens residing in a State may acquire and hold property, and on their death transmit it to alien heirs who do not reside in the State, against the provisions of the laws of the State, otherwise valid—and so the authorities already cited hold—then it, certainly, must be competent for the treaty-making power to stipulate that aliens residing in a State in pursuance of the treaty may labor in order that they may live and acquire property that may be so held, enjoyed, and thus transmitted to alien heirs.

The Supreme Court of the United States, Mr. Justice Hughes rendering the opinion, held unconstitutional under the Fourteenth Amendment an Arizona law requiring anyone engaging over five workers to employ not less than eighty per cent citizens under criminal penalties. He said that right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the Amendment to secure, and the contrary would be tantamount to the assertion of the right to deny aliens entrance and abode, for in ordinary cases they cannot live where they cannot work.[97]

In relating this discussion to the problem of the alien teacher, it may be asked whether the practice of a profession is a property right. A case based on the Treaty of Paris of 1898 between the United States and Spain[98] tests the right of a Spanish lawyer to practice law in the Philippines after the Treaty went into effect. Bosque had been a resident of the Philippines under Spanish rule, but he did not exercise the privilege of becoming a citizen of the Islands under the new sovereignty. The court held that the Treaty declaring that cession of sovereignty

[96]Case of Tiburcio Parrott, 6 Sawy. 375, 376.
[97]Truax v. Raich, 239 U. S. 33, 41, 42.
[98]Bosque v. United States, 209 U. S. 91, 100, interpreting 30 U. S. Statutes at Large, 1759.

cannot in any respect impair the property rights which by law belong to the peaceful possession of property of all kinds, but that the stipulation as to property does not relate to rights connected with trades and professions. The Treaty not only expressly mentions "property" but also "industry," "commerce" and "professions."

Does the right of a foreigner to "labor" in the United States include the right to practice a profession? A judicial interpretation of the Act of February 26, 1885, which prohibited the importation and migration of aliens under contract to perform labor in the United States, held that the law applied only to the work of the manual laborer as distinguished from that of the professional man.[99] The business of managing a hospital by Japanese citizens under provisions of the Treaty of Commerce and Navigation of April 5, 1911, between the United States and Japan, was upheld over a conflicting statute of the State of California.[100]

Treaties which preclude discrimination against aliens as to property and other rights do not in general contemplate giving advantages to aliens over citizens. Both aliens and citizens are bound by reasonable regulations of a State as to the procedure required for the disposition of real estate.[101] The same principle of reasonable regulations would appear to apply to foreign teachers.

Educational opportunities for all foreign children equal to the opportunities given to citizens of the United States were preserved when a resolution adopted on October 11, 1906, by the Board of Education of San Francisco was inoperative, which resolution in effect denied admission of Japanese children to the regular public schools of the city, although other alien children were admitted. The Japanese

[99]Church of the Holy Trinity v United States, 143 U. S. 457, 463, interpreting 23 U. S. Statutes at Large, 332.
[100]Jordan v. Tashiro, 278 U. S. 123, interpreting 37 U. S. Statutes at Large, (Part 2) 1504.
[101]Todok v. Union State Bank of Harvard, Nebraska, 281 U. S. 449, interpreting Article 6 of the Treaty with Sweden of April 3, 1783, 8 U. S. Statutes at Large, 60, 64, revived by 8 U. S Statutes at Large, 232, 240, and replaced by 8 U. S. Statutes at Large, 346, 354.

government protested that this resolution was in violation of the treaty rights in Article I of the Treaty of Commerce and Navigation of November 22, 1894.[102] In discussing the question whether it was competent for the treaty-making power to deprive the local State authorities of the right to adopt the school regulation, Mr. Elihu Root, then Secretary of State, said in part:[103]

> Since the rights, privileges, and immunities, both of person and property, to be accorded to foreigners in our country and to our citizens in foreign countries are a proper subject of treaty provision and within the limits of the treaty-making power, and since such rights, privileges, and immunities may be given by treaty in contravention of the laws of any State, it follows of necessity that the treaty-making power alone has authority to determine what those rights, privileges, and immunities shall be. No State can set up its laws as against the grant of any particular right, privilege, or immunity any more than against the grant of any other right, privilege, or immunity. *No State can say a treaty may grant to alien residents equality of treatment as to property but not as to education*, or as to the exercise of religion and as to burial but not as to education, or as to education but not as to property and religion. That would be substituting the mere will of the State for the judgment of the President and Senate in exercising a power committed to them and prohibited to the States by the Constitution.
>
> [Italics supplied]

The situation in the above case was concerned with aliens receiving instruction, but the term "education" also includes the giving of instruction. The latter meaning is placed first in the definition of education given by the Century Dictionary and Cyclopedia:—"1. The imparting or acquisition of knowledge: . . ."

Someone may ask if teaching is a profession. The so-called "learned professions" were originally limited to law, medicine and religion, but other vocations, among

[102]See Address by Elihu Root, *The Real Questions under the Japanese Treaty*, *Proceedings of the American Society of International Law*, April 19–20, 1907, Baker Voorhis & Co., New York City, p. 43, or American Journal of International Law, Vol. I, No. 2, April, 1907, p. 273, discussing 29 U. S. Statutes at Large, 848.

[103]Address by Elihu Root, *Proceedings*, *supra*, p. 54.

them that of teaching, have been added to the list of professions.[104] The Century Dictionary and Cyclopedia defines a "profession":—"3. The calling or occupation which one professes to understand and to follow; vocation; specifically, a vocation in which a professed knowledge of some department of science or learning is used by its practical application to affairs of others, either in advising, guiding or teaching them." It should be noted that the Treaty of December 8, 1923, between the United States and Germany, *supra*, and the treaties analogous to it refer to "professional work" without any qualification of the word "professional."

Education, therefore, is a right which has been granted to aliens by the United States in treaties, besides rights of property, residence, trade, labor, and, to some extent, professional work. The interchange of teachers, the practice of the teaching profession and the recognition of equivalent degrees, thus are proper subjects for the United States to include in international agreements and conventions.

TREATIES SUPREME OVER LEGISLATION OF STATES

Returning to the constitutional problem, a few more precedents may be cited to show that the treaty-making power of the United States is supreme over State legislatures in matters of international scope. This is the case whether the legislative authority under which the State laws are passed is concurrent with that of Congress, or exclusive of that of Congress.

Precedent was established in 1787 by the Constitution of the United States. Because of the failure of the States to co-operate with the Congress of the Confederation in fulfilling treaty engagements, there was inserted in the Constitution of the United States Article VI declaring that all treaties made under the authority of the United States are the supreme law of the land, anything in the constitution or laws of any State to the contrary notwith-

[104]See footnote 56.

standing. In then-existing treaties are found stipulations prohibiting the exaction by any State of the *droit d'aubaine* or similar duties; granting to aliens the right to dispose of goods, movable or immovable, by testament, donation or otherwise, and to receive or to inherit the same; giving various rights of residence within the States; and dealing with many other subjects, which, except for the treaty provisions, had, under the Articles of Confederation, been entirely within the control of the States.[105]

The supremacy of treaties over State constitutions and statutes is discussed in a well known Supreme Court case, decided in 1796, concerning the confiscation of debts of alien enemies. The court said in part:[106]

There can be no limitation on the power of the people of the United States. By their authority the State constitutions were made, and by their authority the Constitution of the United States was established; and they had the power to change or abolish the State constitutions or to make them yield to the general government, and to treaties made by their authority. A treaty cannot be the supreme law of the land, that is, of all the United States, if any act of a State legislature can stand in its way. If the constitution of a State (which is the fundamental law of the State, and paramount to its legislature) must give way to a treaty, and fall before it, can it be questioned, whether the less power, an act of the State legislature, must not be prostrate? It is the declared will of the people of the United States, that every treaty made by the authority of the United States, shall be superior to the constitution and laws of any individual State; and their will alone is to decide. If a law of a State, contrary to a treaty, is not void, but voidable only by a repeal or nullification by a State legislature, this certain consequence follows, that the will of a small part of the United States may control or defeat the will of the whole. The people of America have been pleased to declare, that all treaties made before the establishment of the national Constitution, or laws of any of the States, contrary to a treaty, shall be disregarded.

[105]See Art. XI, Treaty of Commerce of 1778, with France; Art. IV and VI, Treaty of 1782, with Netherlands; Art. V and VI, Treaty of 1783, with Sweden; Art. II and X, Treaty of 1785, with Prussia. Texts in *Treaties, Conventions, International Acts*, etc., *supra*.

[106]Ware v. Hylton, 3 Dallas 199, 236, 237.

The above doctrine is reaffirmed in a case, decided in 1879, which nullified certain laws of the State of Virginia in conflict with the Treaty of 1850 between the United States and Switzerland.[107] The opinion states that it must always be borne in mind that the Constitution, laws and treaties of the United States are as much a part of the law of every State as its own local laws and constitution, and that this is a fundamental principle in our system of complex national polity.

A recent case on the question of powers reserved to the States[108] was decided in connection with the Convention for the Protection of Migratory Birds, concluded between the United States and Great Britain on August 16, 1916.[109] The treaty provides for the protection of migratory birds in the United States and Canada, and binds each power to take and propose to their lawmaking bodies the necessary measures for carrying it out. The Act of Congress, July 3, 1918,[110] prohibiting the killing, capturing or selling of any of the migratory birds included in the terms of the treaty, was declared constitutional as pursuant to the treaty and not an infringement of property rights and sovereign powers reserved to the States by the Tenth Amendment. In his opinion Mr. Justice Holmes said in part:[111]

[107]Hauenstein v. Lynham, 100 U. S. 483, 490. See also Moore, *Digest of International Law*, *supra*, Vol. V, pp. 155–179.

[108]Missouri v. Holland, 252 U. S. 416.

[109]39 U. S. Statutes at Large, 1702. Some dicta contrary to the case of Missouri v. Holland are found in Prevost v. Gremaux, 19 How. 1; License Cases, 5 How. 504, and Passenger Cases, 7 How 283.

[110]40 U. S. Statutes at Large, 755.

[111]Missouri v. Holland, *supra*, pp. 433, 434. See also Convention Relating to Fisheries in United States and Canadian Waters, concluded April 11, 1908, between the United States and Great Britain, 35 U. S. Statutes at Large, 2000, concerning the subject of which the Attorney General of the United States gave as his opinion: "The regulation of fisheries in navigable waters within the territorial limits of the several States is, in the absence of a treaty, a subject of State rather than of Federal jurisdiction; but the government of the United States has power to enter into treaty stipulations on the subject, e. g., with Great Britain, for the regulation of the fisheries in the waters of the United States and Canada along the international boundary, and the fact that a treaty provision would annul and supersede a particular State law on the subject would be no objection to the validity of the treaty." Griggs, Att. Gen., Sept. 20, 1898, 22 Op. 214.

It is obvious that there may be matters of the sharpest exigency for the national well-being that an Act of Congress could not deal with but that a treaty followed by such an act could, and it is not lightly to be assumed that, in matters requiring national action, "a power which must belong to and somewhere reside in every civilized government" is not to be found . . . No doubt the great body of private relations usually fall within the control of the State, but a treaty may override its power.

SELF-EXECUTING TREATIES

No legislation by the Congress of the United States would be necessary to carry out the provisions of the proposed convention on international education, because such a convention could be self-executing and thus become presently effective. A treaty as legislation was discussed in 1829 by Chief Justice Marshall of the United States Supreme Court, who said:[112]

Our constitution declares a treaty to be the law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of legislature, whenever it operates of itself without the aid of any legislative provision.

Further discussion of a treaty as legislation is found as follows:[113]

An examination of the decisions of the Supreme Court on this topic will show there is no practical distinction whatever as between a statute and a treaty with regard to its becoming presently effective, without awaiting further legislation. A statute may be so framed as to make it apparent that it does not become practically effective until something further is done, either by Congress itself or by some officer or commission interested with certain powers with reference thereto. The same may be said with regard to a treaty. Both statutes and treaties become presently effective when their purposes are expressed as presently effective.

An ordinance of Seattle, Washington, denying to aliens licenses to carry on the business of pawnbroker was

[112]Foster and Elam v. Neilson, 2 Peters' Reports 253, 314.
[113]United Shoe Machinery Co. v. Duplessis Shoe Machinery Co., 155 Fed. 842, 845.

declared to be in violation of the Treaty between the United States and Japan proclaimed April 5, 1911.[114] Mr. Justice Butler of the United States Supreme Court delivered the opinion which is in part as follows:[115]

Treaties for the protection of citizens of one country residing in the territory of another are numerous, and make for good understanding between nations. The treaty is binding within the State of Washington, Baldwin v. Franks, 120 U. S. 678, 682–683. The rule of equality established by it cannot be rendered nugatory in any part of the United States by municipal ordinances or State laws. It stands on the same footing of supremacy as do the provisions of the Constitution and laws of the United States. It operates of itself without the aid of any legislation, state or national; and it will be applied and given authoritative effect by the courts.

The ineffectiveness of a treaty expressly reserving to the States of the United States the right to make laws modifying the terms of the treaty itself is demonstrated in a recent decision in the French courts dealing with Article VII of the Consular Convention of February 23, 1853, between the United States and France.[116] The opinion states in part:[117]

. . . il suffit de considérer que le premier alinéa de l'article 7 de la convention du 23 février, 1853, prend bien soin de réserver à chacun des États de l'Union le droit de réformer, quand et quand il lui plairait, sa législation interne pour restreindre ou même pour supprimer le droit de propriété des étrangers sur son territoire, qu'on ne concevrait donc pas que la France ne puisse exercer le même droit de réciprocité, qui est

[114]37 U. S. Statutes at Large, 1504.

[115]Asakura v. City of Seattle et al., (1924) 265 U. S. 332, citing Foster v. Neilson, 2 Pet. 253, 314; Head Money Cases, 112 U. S. 580, 598; Chew Heong v. United States, 112 U. S. 536, 540; Whitney v. Robertson, 124 U. S. 190, 194; Maiorans v. Baltimore & Ohio R. R. Co., 213 U. S. 268, 272. Note: Self-executing provisions of treaties have been discussed in a series of decisions on treaties dealing with prohibition enforcement and the search of foreign ships. See *Are The Liquor Treaties Self-Executing?* by Edwin D. Dickinson, American Journal of International Law, July, 1926, Vol. 20, p. 444.

[116]10 U. S. Statutes at Large, 992.

[117]Thouret c. Conner, Trib. paix Argenteuil, 28 octobre, 1926, *Journal du Droit International*, Clunet, 54e année, Deuzième livraison, mars-avril, 1927, Paris, p. 428.

d'ailleurs formellement proclamé dans l'article 11 c. civ; et que c'est precisément de ce droit que, sous l'empire de circonstances exceptionelles et pour une période de temps d'ailleurs limitée, le législateur a usé lorsque, dans l'article 5 de la loi du 1er avril 1926, il a, à deux reprises, specifié que, seul le propriétaire de nationalité française serait fondé à évincer une locataire du droit à la prorogation légale; que ce faisant, la loi française n'a point violé la convention diplomatique invoquée, ni contrevenu aux principes du droit international public; . . .

A treaty promoting the interchange of foreign teachers and the practice of the teaching profession, if it should contain a clause reserving to the States of the United States the privilege of making local laws as to such teachers, is not certain to secure the desired result, even if accompanied by the suggestion that action by State legislatures or by individual institutions of learning, both public and private, be taken to carry out the provisions of the treaty within the respective jurisdictions of the States. The treaty-making power cannot compel State legislation. Inaction on the part of some of the States, or action by other States in modification or in variance of the treaty provisions would result in confusion and in lack of uniformity, or, as in the above example, the potentiality of conflicting action might, as a practical matter, make the treaty inoperative. A convention on international education to be entirely effective should be self-executing as regards both Congressional and State legislation.[118]

TREATIES SUPREME OVER ACTS OF CONGRESS

According to Supreme Court decisions interpreting the Constitution of the United States with respect to international relations of the nation, the treaty-making power has jurisdiction over matters beyond the jurisdiction of Congress, and consequently includes some, at least, of the powers which, if measured only by the jurisdiction of

[118]See Convention on the Practice of Liberal Professions, signed at the Second Conference of American States, January 27, 1902, quoted in Chapter II of this booklet.

Congress, would be reserved to the States or to the people. It has been said, "In the light of these opinions it cannot well be denied that the treaty-making power is a *national* rather than a *federal* power, and this distinction measures the whole difference between its jurisdiction and the jurisdiction of Congress in relation to the so-called reserved powers."[119] It has also been said that the treaty-making power is not distributed; that it is all vested in the national government; that no part of it is vested in or reserved to the States; that in international affairs there are no States; but that there is one nation, acting in direct relation to and representation of every citizen in every State.[120]

When treaties and acts of Congress relate to the same subject, Mr. Justice Field of the Supreme Court of the United States said in an opinion that the courts will always endeavor to construe them so as to give effect to both, if that can be done without violating the language of either, but if the two are inconsistent, the one last in date will control the other, provided always the stipulation of the treaty on the subject is self-executing.[121]

As to the execution of treaty provisions after ratification and proclamation of the treaty, it was held by the Chief Justice of the Supreme Court as early as 1801 that the execution of a contract between nations is to be demanded from, and, in general, superintended by the executive of each nation.[122]

AGREEMENTS UNDER ACTS OF CONGRESS

Some international agreements are concluded and proclaimed by the President of the United States in compliance with authority previously granted under acts of Congress. In such cases the action of the President does not require

[119] *The Extent and Limitations of the Treaty-making Power under the Constitution*, Chandler P. Anderson, The American Journal of International Law, Vol. I, July, 1907, p. 667.
[120] Address by Elihu Root, *supra*, Proceedings, p. 49, or Journal, p. 278.
[121] Whitney v. Robertson, 124 U. S. 190, 194.
[122] United States v. Schooner Peggy, 1 Cranch's Reports 103, 110.

the further consent of the Senate. Notable examples of this type of agreement are proclamations of the President providing for reciprocity in commercial, copyright and postal arrangements with other governments.

A repeal of discriminating duties against vessels and products imported therein was provided in an act of Congress on March 3, 1815, with respect to nations in which discriminating duties against the United States did not exist, the President to determine in each case by proclamation the application of the repeal.[123] Section 3 of the tariff act of October 1, 1890, authorized and directed the President to suspend the privilege of free importation and to subject articles in question to certain duties as to nations which imposed duties on products of the United States that were, in the opinion of the President, unreasonable or unequal, and this section, having been assailed as involving unlawful delegation of legislative power, was sustained as constitutional by the Supreme Court.[124] Other laws have provided for the imposition by proclamation of the President of certain differential rates, the conclusion of commercial arrangements as to concessions, the suspension of duties and limited changes in tariff rates.

International copyright in the United States was regulated by the law of March 3, 1891, section 13[125] of which empowered the President to extend by proclamation the benefits of the law to citizens and subjects of a foreign state, when assured that citizens of the United States were allowed the benefit of copyright in that state on substantially the same basis as its own citizens, or when the state was a party to an international agreement which provided for reciprocity in the granting of copyright, by the terms of which agreement the United States might at its pleasure become a party. Under the first alternative the President extended the benefits of the law by proclamation

[123]3 U. S. Statutes at Large, 224.
[124]Field v. Clark, 143 U. S. 649, interpreting 26 U. S. Statutes at Large, 567, 612.
[125]26 U. S. Statutes at Large, 1110.

to subjects of Belgium, France, Great Britain, Switzerland, Germany, Italy and other countries.[126] The present copyright law of the United States is based upon the act of Congress of March 4, 1909,[127] which embodies principles analogous to those in the earlier statute.

The owner of a trade-mark used in commerce with foreign nations, or among the several States of the United States, provided such owner shall be domiciled within the territory of the United States or resides in or is located in any foreign country which, by treaty, convention or law, affords similar privileges to citizens of the United States, may, according to act of Congress of February 20, 1905, obtain registration for such trade-mark, by complying with certain requirements.[128] The international situation as to patents, as far as the United States is concerned, is more liberal than as to trade-marks, since any person may apply for a patent, by complying with statutory requirements,[129] but, in neither case is the President given authority analogous to that under the tariff and copyright laws.

For the purpose of making postal arrangements with foreign countries or to counteract their adverse measures affecting the postal intercourse of the United States, Congress authorized the Postmaster General, by and with the consent of the President, to negotiate and conclude postal treaties or conventions, and to reduce or increase the rates of postage on mail matter conveyed between the United States and foreign countries.[130] Pursuant to the authority given by Congress, the Postmaster General has concluded a number of international agreements.

In connection with foreign teachers it is pertinent to consider whether the Congress of the United States could

[126]For examples, see *Treaties, Conventions, International Acts, etc., supra*, Vol. I, p. 105.
[127]35 U. S. Statutes at Large, 1075.
[128]33 U. S. Statutes at Large, 724.
[129]Revised Statutes of the United States, Section 4886.
[130]Revised Statutes of the United States, Section 398.

legislate regarding the admission of alien teachers to the United States and in such legislation empower the President to make international agreements with governments having reciprocal or substantially equivalent provisions relating to the admission of American teachers. If Congress, by virtue of its jurisdiction in matters of immigration, should enact legislation of this character, and if the President should issue a proclamation pursuant thereto concerning international intellectual relations, such act of Congress and proclamation could not provide for the practice of the teaching profession in the several States of the United States. There would remain the problem of employment of alien teachers in the schools of those States whose laws discriminate against foreign teachers. An act of Congress cannot override State legislation dealing with powers reserved to the States under the Constitution of the United States. Education is one of the subjects under State jurisdiction, and is therefore to be distinguished from commerce, copyright, patents and postal service. Moreover, the choice of foreign governments with which the President could negotiate international agreements pursuant to such an act of Congress would be limited to those countries whose municipal (national) laws at the time provide the required reciprocal or substantially equivalent treatment of American teachers.

Copyright, postal service and the protection of industrial property are subjects of various international conventions. The United States belongs to the Universal Postal Union,[131] and is a party to international conventions which have formed Unions for the protection of industrial property providing that nationals of the contracting parties shall enjoy in the various states members of the Union such advantages as to patents and trade-marks as the respective laws of those states accord

[131]Postal Convention of London, June 28, 1929, together with Regulations for its Execution, 46 U. S. Statutes at Large (Part 2) 2523.

to their nationals.[132] An International Copyright Union was established by a convention signed at Berne, Switzerland, September 9, 1886, for the protection of literary and artistic property, but the United States has never become a member of this Union, although it has joined in a Copyright Union with Latin-American countries.[133]

The administration of these Unions is an interesting study, but cannot be gone into here. The various governments control patents, trade-marks and copyrights within national jurisdiction, and international bureaus located at Berne and Havana have been established to carry out international provisions of the above conventions. In the following chapter are described administrative agencies, national and international, now engaged in the promotion of interchange of foreign teachers, together with discussion of possible agencies for international interchange of teachers pursuant to a treaty on education.

EXECUTIVE AGREEMENTS

The President of the United States has the power under certain circumstances to enter into a type of international agreement which does not call for its submission to the Senate and which is not based on any previous legislation of Congress. An example of this type is the adjustment by arbitration of certain claims of citizens of the United

[132]The Convention and Protocol on Trade-Mark and Commercial Protection and Registration of Trade-Marks between the United States of America and other American Republics was signed at Washington, February 20, 1929, and was proclaimed by the President of the United States, February 27, 1931, 46 U S Statutes at Large, (Part 2) 2907; Convention on the Protection of Industrial Property between the United States and other Powers was signed at The Hague, November 6, 1925, and proclaimed by the President, March 6, 1931.

[133]Convention for the Protection of Literary and Artistic Works of September 9, 1886, signed at Berne, revised November 13, 1908, March 20, 1914, and June 2, 1928, English translation of 1908 text, Department of State, Treaty Information Bulletin No. 16, January, 1931, Government Printing Office, Washington, p. 47, Convention Concerning Literary and Artistic Copyright, signed at the Fourth International Congress of American States, Buenos Aires, August 11, 1910, proclaimed by the President, July 13, 1914, 38 U. S. Statutes at Large, 1785, or *Treaties, Conventions*, etc., *supra*, Vol. III, p. 2927.

States against foreign governments, settlement of which is sometimes made through the diplomatic agent and the Minister of Foreign Affairs, or through a commission named by them.[134] A recent example of international arrangement effected by the exchange of notes is the executive agreement between the United States and the Dominion of Canada for the admission of civil aircraft, the issuance of pilots' licenses and the acceptance of certificates of air-worthiness for aircraft imported as merchandise, which arrangement was signed August 29, 1929, by the Secretary of State of the United States and by the Minister of the Dominion of Canada to the United States, October 22, 1929.[135]

The admission of civil aircraft and the licensing of air pilots differ from the admission of foreign teachers and the practice of the teaching profession in that the federal government has jurisdiction over interstate and foreign commerce, and, under a federal enactment, issues federal licenses to pilots of aircraft, while there can be no federal license to teach throughout the United States since matters of education in general are reserved to the States. Exception is noted for the District of Columbia and for certain federal institutions of learning such as the United States Military and Naval Academies. If an executive agreement were made between the United States and another government as to the interchange of teachers and the practice of the teaching profession, it would necessarily deal only with teaching in institutions of learning under federal jurisdiction and with employment in departments of the federal government. Even though accompanied by a suggestion to the schools and universities, both public and private, in the several States of the United States that they consider the advisability of adopting the principle of foreign interchanges, such an executive agreement could

[134]Moore, *Digest of International Law, supra*, Vol. V, pp. 210–218.
[135]*Executive Agreement Series, No 2*, Publications of the Department of State, list cumulative from October 1, 1929, Publication No. 19, 1929, Government Printing Office, Washington, 1931.

carry with it no compulsion to ensure uniformity of action, or, in fact, any action at all. Executive agreements are useful and effective in preliminary and temporary arrangements or in international relations of a limited or special scope.

SUMMARY OF TREATY-MAKING POWER IN THE UNITED STATES

The treaty-making power in the United States may be exercised under three categories:

1. *Treaty or convention* made by the President, with ratification advised by the Senate, provided two-thirds of the Senators present concur, ratification by the President and by the other contracting government or governments, exchange of ratifications and proclamation by the President;

2. *International Agreement under Act of Congress authorizing the President* to extend by proclamation the benefits of the law to citizens of a foreign state when assured that substantially equal treatment in the matter is accorded to American citizens, exchange of notes and proclamation by the President;

3. *Executive Agreement*, concluded by exchange of notes, and proclamation by the President.

A self-executing treaty or convention does not require any subsequent enactment by Congress. The treaty-making power is national rather than federal, and the result of its exercise becomes the supreme law of the land.

V. CUSTOM IN INTERNATIONAL EDUCATION

> **International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination. For this purpose, where there is no treaty, and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations.**[136]

The importance of custom has been recognized by the Supreme Court of the United States in the above opinion. In the absence of treaties, legislation, executive act or judicial decisions to the contrary, there is permissive approval by the government of the United States for unofficial international co-operation in education. The international interchange of teachers has increased to such volume and extent, unofficially in the United States as well as officially and unofficially in many other countries, that foundations appear to be started for international law on the subject. Custom is one source and probably the best evidence of international law. Principles of international law are frequently written into treaties, and at the present time twenty-nine European and Latin-American governments have recorded in treaty form their official support of international education, while other governments have entered into agreements relating to the subject.

CUSTOM AS TO FOREIGN TEACHERS

A custom generally creates organization machinery for the promotion of its purpose, and international intellectual co-operation is no exception. Some educational organizations have been formed solely to encourage international interchanges of professors and students,

[136]The Paquete Habana, 175 U. S. 677, 700.

while others include such interchanges in a more extended program. Only a few of these organizations will be mentioned here. Geographically they cover nearly the whole world, but their activities appear to be particularly intensive in Europe and the American continents; intellectually they embrace many branches of knowledge; spiritually they are instrumental in bringing about mutual understanding between nations.

LEAGUE OF NATIONS

The League of Nations International Committee on Intellectual Co-operation examines international questions relating to intellectual co-operation and makes recommendations concerning them. The Committee was appointed by the Council of the League of Nations in May, 1922. It now consists of seventeen persons distinguished in intellectual life. An American appointee is included in the number. National Committees of the International Committee function in forty countries, of which the United States is one.[137] The International Institute of Intellectual Co-operation has as its governing body the International Committee on Intellectual Co-operation. The Institute was created by a resolution adopted by the Fifth Assembly of the League of Nations on September 23, 1924. The Institute of Intellectual Co-operation serves as the executive agency of the League of Nations Committee on Intellectual Co-operation in the field of higher education, conducts research, issues literature and organizes activities relating to these subjects.[138]

A recommendation adopted by the League of Nations International Committee on Intellectual Co-operation in

[137]Office of the American National Committee on Intellectual Co-operation is at 2101 Constitution Ave., Washington, D. C. Note: Dr. R A. Millikan is the American appointee on the League of Nations International Committee on Intellectual Co-operation.

[138]Office of the International Institute of Intellectual Co-operation is at 2, rue de Montpensier (Palais-Royal), Paris, at the invitation of the government of France.

July, 1928, indicated the development of international interchanges:[139]

The Sub-Committee, having heard with great interest the report of the International Institute on the question of exchanges of professors, directors of research, directors of laboratories, etc.,

1. Endorses the general conclusion that it would be impossible to apply to the organization of these interchanges, and to exchanges of professors in general, a rigid system which would in any way restrict the freedom of choice of professors called to lecture abroad;

2. Nevertheless, considers that, if sufficiently elastic agreements are concluded between the authorities concerned in different countries, they may ensure a more systematic preparation of exchanges, and that organs of liason, in particular the National Committees on Intellectual Co-operation, can do most valuable work in this field, especially in connection with courses of a certain duration, which are specially desirable from the scientific point of view;

3. Recognizes the impossibility of adopting a general principle in regard to the language employed by foreign lecturers, but draws attention to the great desirability of affording them as much opportunity as possible of speaking in their own language.

[139]Extract from Report submitted to the Council and Assembly of the League of Nations, August 10, 1928, A.28.1928.XII, p. 6; see footnote 1, *Ibid*, p. 6; also the following resolution. The meeting welcomes the constantly increasing development of exchanges of professors. It understands this expression in its widest sense, namely, that of all visits paid to Universities in one country by professors from another for the purpose of giving lectures or courses of lectures. The experience of all the [National University] Offices shows that these visits contribute most effectively to the establishment of closer intellectual relations.

The meeting therefore warmly recommends that this excellent custom shall be made more general, and at the same time more effective, by:

(a) Making systematic preparations for such exchanges by agreements between the Universities concerned,

(b) Selecting for these courses periods at which the foreign professors can count upon a particularly wide hearing,

(c) Taking advantage as far as possible of every journey made by a professor to invite him to give not only single lectures but also courses of lectures, with or without practical experiments;

(d) Seeking the most suitable means of enabling professors to teach systematically abroad for a term, a half-year or even a whole year.*

*League of Nations, A.35 1927.XII, p. 8, footnote 1, Third Recommendation of Directors of National University Offices. See also League of Nations, A.20.1924.XII, pp 40, 41.

A recent demonstration of the functioning of the League of Nations Committee on Intellectual Co-operation is the response to a request from the Chinese government for an interchange of university professors. By arrangement, China will send to Europe scientists, writers, philosophers, historians and archæologists, while the League will arrange for European specialists in medical and natural science, law and government to be sent to China.[140]

The plan for promoting the interchange of secondary school teachers, in which the Committee was interested, had to be abandoned during the year due to the failure to secure the necessary funds. However, because of the extreme importance of the plan for the League, and in accordance with the recommendation of the American National Committee on Intellectual Co-operation especially interested in the matter, it was considered advisable to undertake a detailed study of the conditions under which exchanges of secondary school teachers between a few typical countries are taking place, in order to show what is actually practicable and where the greatest difficulties lie.[141]

Legislation was the subject of a resolution adopted at the fourth meeting of the National University Offices, expressing satisfaction with the liberal legislation and practice in certain countries concerning the appointment of foreign professors, recommending that the Institute of Intellectual Co-operation assemble the texts of laws and regulations governing the question in the different nations, and suggesting that, until international agreements are concluded on the subject, the system of employing professors, for example, in Poland and Czechoslovakia be followed, and the plan established in Italy under the law of December 19, 1926, No. 2, 321.[141a]

The fourth conference of representatives of institutions

[140]League of Nations, C 471 M.201.1931.XII, p. 42.
[141]League of Nations, C.471.M.201.1931.XII, p. 73.
[141a]League of Nations, C.342.M.121.1929.XII, p. 95.

for the scientific study of international relations, at Copenhagen, June, 1931, adopted the following resolution:

The Conference:

Requests the International Institute of Intellectual Co-operation to draw up, and distribute to the members of the Conference, a memorandum describing the existing facilities for the exchange of university professors of international relations and kindred subjects, including any such facilities as are provided for in international treaties, conventions and other instruments, and enumerating the institutions which provide such facilities [141b]

PAN-AMERICAN UNION

The Pan-American Union,[142] which is the international organization maintained by twenty-one American Republics for the development of good understanding, friendly intercourse, commerce and peace among them, has its Division of Education, now called the Division of Intellectual Co-operation, which aids the interchange of professors and students through the publication of articles and press notices, also through correspondence with government officials, educational institutions, professors and students. It has prepared data of treaties and conventions on the subjects of exchange of professors and students and the recognition of academic degrees.[143]

At the Sixth Conference of American States at Havana, February 15, 1928,[144] the Inter-American Institute of Intellectual Co-operation was created to work in close relationship with the Pan-American Union, and a Congress of Rectors, Deans and Educators in general was called by the Pan-American Union to give definite form to the Institute. The Organic Act of the Inter-American

[141b]League of Nations, C 471 M.201.1931 XII, pp 58, 59.

[142]International Headquarters of the Pan-American Union are at 17th St. and Constitution Ave, N. W, Washington, D. C.

[143]*Special Handbook for the Delegates* to the Sixth Conference of American States, *supra;* and *Documentary Information, Inter-American Congress of Rectors*, etc, *supra*

[144]*Report of the Delegates of the United States of America to the Sixth International Conference* of American States, Government Printing Office, 1928 pp. 304–306.

Institute of Intellectual Co-operation was approved at the Congress on February 23, 1930, and includes the following provisions:[145]

The institute shall be composed of a National Council for Intellectual Co-operation in each of the American Republics and an Inter-American Central Council of Intellectual Co-operation. The program of work of the institute and a report on its activities shall be presented annually to the Governing Board of the Pan-American Union, and a special report shall be presented to the International Conference of American States.

THE NATIONAL COUNCILS

(a) Organization—The Pan-American Union will request the Secretary or Department of Public Instruction of each of the American Republics to invite the universities and other institutions of higher education, as well as the academies, associations (especially those of professors and students) institutes, museums, libraries, and other similar organizations devoted to the furtherance of arts and letters, sciences or professions, to appoint delegates to integrate the Inter-American National Council of Intellectual Co-operation, . . .

Each concurring country shall determine the form of organization of its own council and the bodies that are to have a representative in it . . .

(b) Functions—The functions of the national councils shall be:

* * * *

2. (a) To collect information relative to the institutions of education, science, arts, and letters of their respective countries and the facilities afforded to foreign professors, students and research workers, and furnish it to the Inter-American Central Council; (b) to receive and disseminate similar information regarding other countries; (c) to promote actively the interchange of professors, students, research workers, special investigators, and cultural missions between the American republics.

3. To promote in their respective countries the study of such subjects as shall give an understanding of the development and culture of the other nations of America.

[145] *Inter-American Congress of Rectors, Deans and Educators*, Heloise Brainerd, Bulletin, Pan-American Union, April, 1930, Washington, D. C., p. 390. Also *Report of the Chairman* of the Delegation of the United States to Inter-American Congress of Rectors, etc., *supra*.

4. To endeavor to secure the adherence of their respective countries to international agreements and programs of intellectual co-operation.

The League of Nations and the Pan-American Union are the two official international organizations which assume leadership in intellectual co-operation, among other programs, and which emphasize closer educational relations internationally. Each nation of the world also has some government department, ministry or office of education, which takes official charge of its individual educational interests, both national and international.

UNOFFICIAL GROUPS IN INTERNATIONAL EDUCATION

Many unofficial organizations render valuable assistance in the interchange of students and professors, as well as in research, in the dissemination of information about academic standards and other matters concerning international education. Some of these groups are organized internationally, such as the World Federation of Education Associations, the New Education Fellowship, *Fédération Interalliée des Anciens Combattants*, which concerns itself with encouraging courses of instruction in world politics, international law and relations, the International Bureau of Education in Geneva, the International Federation of University Women, the World League of International Education Associations for secondary schools, and others. A plan has been proposed for an International Universities Association.

The World Federation of Education Associations at its fourth biennial conference held in Denver, Colorado, July 27 to August 1, 1931, adopted the following in a resolution on international understanding:

> That governments and states should, where necessary, bring about such modifications of the existing laws as will make the interchange of teachers a real possibility.

In the United States work along the lines of international education is carried on by institutions of learning,

educational associations and foundations, and by individuals. The list includes the Carnegie Endowment for International Peace, The Carnegie Foundation for the Advancement of Teaching, the Rockefeller Foundation, the Committee for the Relief in Belgium Educational Foundation, the American-Scandinavian Foundation, the International Institute of Teachers College of Columbia University, also the School of International Affairs at the same University, the School for International Studies at Princeton University, the Progressive Education Association, the Institute of International Education, and many others.[146]

The Institute of International Education has for its general aim the development of international understanding, goodwill and education through such activities as the exchange of professors, the establishment and administration of international fellowships, the holding of conferences on problems of international education, and the publication of books and pamphlets on the opportunities for study in the different countries.

Summer sessions of universities in this country and abroad take advantage of available instruction by professors from foreign universities. Special summer schools have been organized to promote international studies, such as the Academy of International Law of The Hague, the Geneva School of International Studies and the Institute of Politics at Williamstown, where lecturers and students gather from many parts of the world. The Institute of Pacific Relations discusses problems of the nations bordering on the Pacific Ocean. Groups of specialists in science, art, medicine, law, and other professions collaborate internationally in their respective fields.

[146]See *University Exchanges in Europe, supra; Documentary Information, supra;* and *Directory of American Agencies Concerned with the Study of International Affairs,* compiled by Ruth Savord, Council on Foreign Relations, 1931, New York, see *Educational Directory* 1930, United States Office of Education Bulletin (1930), No 1, Government Printing Office, Washington, pp 114–116, *International Understanding. Agencies Educating for a New World,* John Eugene Harley, 1931, Stanford University Press, Stanford University, California.

ADMINISTRATION

Administrative principles connected with a multipartite convention on international education would be similar to those connected with a bipartite convention on the subject, but with larger spheres of activity depending upon the scope and intensity of the educational interchanges. Each government would need a national commission, bureau, board, or committee to act as a clearing-house for registration of teachers, qualifications of applicants, positions, accrediting of institutions of learning, research, information, and assistance to enable the foreign teacher to make rapid and satisfactory adjustments to the new environment. Each government would decide whether such commission, bureau, board, or committee should be official or unofficial, or a combination of government officials and outside educational advisers, and whether an existing national agency could be utilized with expanded powers. The experience of governments which are parties to treaties on intellectual relations would be helpful in regard to methods of handling the question. A study of the functioning of the International Institute of Intellectual Co-operation of the League of Nations, the Institute of Intellectual Co-operation of the Pan-American Union, the international bureaus of the copyright, postal and trade-mark unions, and the various unofficial international educational organizations undoubtedly would indicate the need, if any, and possible set-up of an international bureau or committee to act as an international clearing-house, and whether an existing international agency could be utilized. Problems of immigration and nationality would be administered by the appropriate government department or ministry, with which the above-suggested national and international agencies would co-operate.

In predicting the nation or nations which might respond favorably to negotiations of the treaty-making power of the United States concerning a possible convention on

international education, the obvious choice would be countries which either have already entered into a convention on intellectual co-operation or possess national laws encouraging the employment of foreign teachers and providing equal or reciprocal treatment. In addition, the United States may find that, because of absence of quota restrictions in its immigration laws with respect to nations on the American continents, an easier approach can first be made with Latin-American countries. Of considerable weight also is whether the cultural development of a country is toward liberality in the custom of international interchanges in education.

MOTION PICTURES AND RADIO

Even as did the discovery of printing a few centuries ago, modern invention has increased the means of expanding intellectual relations internationally. Educators have availed themselves of the new opportunities. The World Federation of Education Associations, for example, recognizing the possibilities of encouraging international understanding and goodwill through the radio and the cinema, has appointed a committee to study the best utilization of these inventions, to make recommendations and to co-operate in organizing efforts, with this end in view. It recommended that educational authorities and those in charge of radio broadcasting in each country study the feasibility of international radio broadcasting of educational programs for school children, and also recommended that proper educational authorities and organizations study the possibilities of the use of educational sound films in schools for the true presentation of life in foreign countries.

The International Educational Cinematographic Institute has been established under the League of Nations at Rome[147] to study the use of the motion picture in education and social relations, as well as the method of dealing with

[147]League of Nations Committee on Intellectual Co-operation, C.212, M.100, 1930, XII; and C.694, M.291, 1931, XII.

the cinema in international legislation. In the latter connection a committee of experts, convened for the purpose, framed a preliminary draft international convention for the abolition of customs barriers against educational films. Duties considerably restrict the production and distribution of educational films, and serious disadvantages result from customs measures which have not been balanced by any financial advantages to the states adopting them.

The United States Tariff Act of 1930, Paragraph 1631,[147a] provides that any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or any college, academy, school, or seminary of learning in the United States, or any State or public library, may import free of duty any book, map, music, engraving, photograph, etching, lithographic print, or chart, for its own use or for the encouragement of the fine arts, and not for sale, under such rules and regulations as the Secretary of the Treasury may prescribe. The Customs Division, Treasury Department (T.D. 40560), has classified educational motion picture films as "photographs" and accorded them free entry when imported by institutions of the character and for the purpose of those mentioned in the paragraph above quoted.

The customs barriers on films, like immigration restrictions on foreign teachers, retard the development of international education. Hand in hand with the interchange of teachers, the introduction into schools and universities of educational sound films affords opportunity to compare standards and practices of educational methods of different countries. Through enlisting the aid of this new dynamic medium, educators are quickening the scientific and professional spirit in research on problems of importance between peoples, and are stimulating the exchange and diffusion of educational information.

[147a] 46 U. S. Statutes at Large, 675.

VI. CONCLUSION

International education played an early and important part in the academic centers of Athens, Rome and Alexandria; in Europe during the Middle Ages extensive migrations of students and teachers took place; the exchange of teachers between Germany, France and England toward the latter part of the nineteenth century received an impetus from a simultaneous movement in those countries for better teaching of foreign languages; at the same time some of the Latin-American countries entered into treaties on the practice of liberal professions; an aftermath of the World War was the marked increase in interchanges of students and professors, especially noticeable as to the United States, which shows no sign of abatement. Thus for long periods of history the custom of international interchange of knowledge and culture has taken firm root in Europe and more recently in the American continents. It is also found in other parts of the world.

The official support of many governments has been given to the cultural side of international education through their systems of instruction, and a legal basis has been secured for international education through national constitutions, legislation and treaties. Although governments with a national system of education may find it easier to enter into international relations, the United States, which has a decentralized system of education, is not barred from entering into a convention concerning the interchange of teachers and the practice of the teaching profession.

Legislators and educators in the United States today, because of the growing custom of interchange of teachers, are confronted with the problem whether certain provisions in the federal immigration law concerning alien professors and certain State laws prohibiting the employment of foreigners in the schools shall continue to hamper the

advancement of international education. These measures have all been enacted since the beginning of the World War, and the question may well be raised as to the wisdom of continuing policies which perhaps had a temporary usefulness, but which are not in accordance with long-established custom of a liberty-loving nation. From the founding of the Republic of the United States until 1915 there appears to have been no special test for purposes of immigration as to teaching experience and no legal restrictions upon institutions of learning, either public or private, as to the employment of foreign teachers.

International interchange of knowledge has been enjoyed the world over by seekers of education since remote periods of history. Are students today in the United States to be less fortunate in this respect? Legislation, as the reflection of policies for the general welfare, fails in its purpose if it prolongs temporary measures beyond their need or prevents beneficial social development. The legislation which restricts international education should be modified or repealed.

A more constructive and far-reaching method of assisting international education and of making obsolete the above obstructive legislation is by treaty. An international convention on education not only could provide an equal opportunity for all schools in all the States of the United States to employ foreign teachers when desired, but also would encourage openings for American teachers to give instruction abroad. The policy of equal or reciprocal treatment must be worked out, as well as problems of a practical nature involving qualifications of teachers, salary adjustments, periods of foreign appointment, accrediting of institutions, equivalence of degrees, and other phases of the subject. To solve these problems there is need of determination, diligent research, goodwill, and an enlightened public opinion.

The United States has entered into conventions dealing with intellectual relations with foreign countries, such

as the exchange of official documents, scientific and literary productions, copyright of artistic and literary property; it has signed treaties on commerce, and on patents and trade-marks for industrial property; it has given foreigners through treaty provisions the rights of residence, property, labor and equal opportunities for education. No constitutional reasons bar the United States from entering into a convention providing for the interchange of foreign teachers and the practice of the teaching profession. It has been said that every *civis academicus*, as a matter of course, should enjoy a citizen's right throughout the whole academic world, apart from the privileges which may be offered to him through hospitality, and further that common membership in the realm of learning, under the aegis of the university, should act as an effective bond of union between the various cultural and national groups in Europe.[148] Why not apply this principle to the whole world?

A convention on international education would enable the government of the United States to forge one more link in the chain of international intellectual co-operation. There are many other links to be added, as was pointed out by Elihu Root when he spoke on public opinion and foreign policy:[149]

> The discussion of questions of law is but a partial treatment of the subject [improvement in the relations of nations]. The discussion of international feeling, international manners, international morals—the discussion of all these is necessary to complete the picture, and I think when we have studied the history of international relations we must come to the conclusion that underlying improvement in them is not the result of reaching written or oral agreements, of making treaties, of intellectual reasoning, but that it is the result of the enlargement and elevation of standards of conduct in all the countries of the civilized world.

[148] *University Exchanges in Europe, supra*, Preface.

[149] *Public Opinion and Foreign Policy*, Elihu Root, Foreign Affairs, Special Supplement to Vol. 9, No. 2, 45 East 65th Street, New York City, January, 1931.

Educators would undoubtedly agree that the discussion of international feeling, internal manners and morals would be promoted by a treaty which encourages the interchange of teachers. Legal machinery in such case may be made to work toward the desired result, enlargement and elevation of standards of conduct in the civilized world.

APPENDIX

CHRONOLOGICAL LIST

Treaties, Conventions and International Agreements with provisions for the Interchange of Professors, the Practice of Learned Professions and the Mutual Recognition of Academic Degrees, believed to be in force January 1, 1932.[148]

1878—March 31.	Honduras-Salvador. Peace and Friendship. Art. VII and VIII.
1880—July 17.	Guatemala-Honduras. Friendship, Commerce and Extradition. Art. II and III.
1888—March 23.	Ecuador-Peru. Diplomatic Agreement regarding the Practice of Liberal Professions.
1888—July 10.	Ecuador-Mexico. Treaty of Friendship, Commerce and Navigation. Art. I (2), citizens of one signatory country may engage in their trade or profession in the other country; Art. II (5) provides for all benefits granted to the most favored nation.
1889—February 4.	Argentina-Bolivia-Colombia-Paraguay-Peru-Uruguay. Practice of Liberal Professions.
1889—July 8.	Colombia-Peru. Diplomatic Agreement regarding the Practice of Liberal Professions.
1890—March 29.	Ecuador-Salvador. Treaty of Friendship, Commerce and Navigation. Art. V, full recognition of scientific or literary degrees for the practice of professions.
1893—April 24.	Mexico-Salvador. Friendship, Commerce and Navigation. Art. X.
1895—May 15.	Costa Rica-Guatemala. General Treaty. Art. IX.

[148]Information from Pan-American Union, Division of Intellectual Co-operation, and from publications of the International Institute of Intellectual Co-operation, League of Nations. See footnote 23.

1895—June 12.	Costa Rica-Salvador General Treaty. Art. IX
1895—September 28.	Costa Rica-Honduras. General Treaty. Art. VIII.
1897—April 9.	Chile-Ecuador. Recognition of Professional Degrees.
1897—May 4.	Brazil-Chile. Convention on the Practice of Liberal Professions.
1900—November 6.	Mexico-Nicaragua. Friendship and Commerce. Art. VI.
1902—January 27.	Bolivia-Chile-Costa Rica-Dominican Republic-Guatemala-Honduras-Nicaragua-Peru-Salvador. Practice of Learned Professions. [Not ratified by all governments.]
1904—July 30.	Chile-Guatemala. Treaty on the Practice of Liberal Professions.
1905—August 10.	Colombia-Ecuador. Art. XV. Practice of Liberal Professions.
1907—December 20.	Costa Rica-Guatemala-Honduras-Nicaragua-Salvador. Peace and Friendship. Art. VII.
1911—April 17.	Bolivia-Ecuador. Treaty of Friendship. Art. V.
1911—July 17.	Bolivia-Colombia-Ecuador-Peru-Venezuela. Academic Degrees.
1912—March 19.	Bolivia-Colombia. Treaty of Friendship, Art. V reaffirms the Mexico Convention of 1902 on the Practice of Liberal Professions.
1915—July 26.	Argentina-Uruguay. Interchange of Professors.
1916—November 17.	Chile-Uruguay. Interchange of Professors.
1916—November 17.	Chile-Uruguay Convention on the Practice of Liberal Professions.
1917—April 27.	Bolivia-Uruguay. Recognition of Degrees and Certificates.
1917—November 17.	Chile-Uruguay. Practice of Liberal Professions.

1917—December 17.	Chile-Ecuador. Recognition of Professional Degrees.
1919—March 5.	France-Italy. Exchange of Professors.
1919—June 15.	France-Rumania. Recruitment of University Staff.
1920—March 5.	France-Yugoslavia. Recruitment of Professors.
1921—June 17.	Belgium-France. Intellectual Relations. Exchange of Professors. Recognition of Degrees.
1921—June 23.	Chile-Colombia. Convention on the Practice of Liberal Professions.
1922—April 28.	Colombia-Uruguay. Interchange of Professors. Recognition of Degrees.
1922—June 11.	France-Poland. Intellectual Relations. Exchange of Professors.
1923—February.	Costa Rica-Guatemala-Honduras-Nicaragua-Salvador. Practice of Liberal Professions.
1923—April 20.	France-Luxembourg. Intellectual Relations. Exchange of Professors.
1923—June 25.	France-Czechoslovakia. Intellectual Relations. Exchange of Professors.
1923—September 21.	Belgium-Luxembourg. Intellectual and Academic Relations. Exchange of Professors. Recognition of Degrees.
1925—March 3.	Spain-Costa Rica. Recognition of Degrees.
1925—September 1.	Belgium-Poland. Scientific, Literary and Academic Relations. Interchange of Professors. Recognition of Degrees.
1926—October 13.	Costa Rica-Colombia. Recognition of Professional Degrees.
1927—October 26.	Belgium-Netherlands. Intellectual Relations. Exchange of Professors.
1927—November 21.	France-Norway. Scientific, Literary and Scholastic Relations. Exchange of Professors.
1930—January 14.	France-Denmark. Scientific, Literary and Scholastic Relations.

Complete list of publications issued heretofore by the Institute of International Education will be found on the following pages.

LIST OF PUBLICATIONS

Following is a complete list of those published Those marked with an asterisk (*) are out of print All others are available for free distribution The nominal charge indicated after each bulletin is intended to cover the cost of packing and mailing

1919

*Announcement of Founding of Institute.

1920

Bulletin No. 1. First Annual Report of the Director. 10 cents.

*Bulletin No. 2. For Administrative Authorities of Universities and Colleges.

*Bulletin No. 3. Observations on Higher Education in Europe.

*Opportunities for Higher Education in France.

*Opportunities for Graduate Study in the British Isles.

1921

*Bulletin No. 1. Second Annual Report of the Director. 10 cents.

Bulletin No. 2. Opportunities for Higher Education in Italy. 10 cents.

*Bulletin No. 3. Serials of an International Character. (Tentative List for Libraries.)

*Bulletin No. 4. Educational Facilities in the United States for South African Students.

*Bulletin No. 5. Guide Book for Foreign Students in the United States.

1922

*Bulletin No. 1. Third Annual Report of the Director. 10 cents.

*Bulletin No. 2. Notes and News on International Educational Affairs.

Bulletin No. 3. A bibliography on the United States for Foreign Students. 10 cents.

Bulletin No. 4. A Report on Education in China. 10 cents.

1923

*Bulletin No. 1. Fourth Annual Report of the Director. 10 cents.

Bulletin No. 2. Guide Book for American Students in the British Isles. 25 cents.

*Bulletin No. 3. Notes and News on International Educational Affairs.

*Bulletin No. 4. Fellowships and Scholarships offered to American Students for Study in Foreign Countries and to Foreign Students for Study in the United States.

Bulletin No. 5. Guide Book for Russian Students in the United States (in Russian). 10 cents.

*Bulletin No. 6. Guide Book for Foreign Students in the United States (Second Edition).

1924

*Bulletin No. 1. Fifth Annual Report of the Director (The Problem of Fellowships for Foreign Students in American Universities and Fellowships for American Students in Foreign Universities). 10 cents.

*Bulletin No. 2. Hints to American Students Going to France for Study or Research. 10 cents.

1925

*Bulletin No. 1. Fellowships and Scholarships Open to American Students for Study in Foreign Countries. 25 cents.

*Bulletin No. 2. Fellowships and Scholarships Open to Foreign Students for Study in the United States 25 cents.

Bulletin No. 3. Sixth Annual Report of the Director (Observations Concerning Foreign Centres of International Education). 10 cents.

1926

Bulletin No. 1. Handbook for American Students in France. 25 cents.

Bulletin No. 2. Seventh Annual Report of the Director (The Junior Year Abroad, Student Third Class, Summer Schools Abroad, Institute Activities). 10 cents.

1927

Bulletin No. 1. Guide Book for Foreign Students in the United States (in Spanish). 10 cents.

*Bulletin No. 2. Guide Book for Foreign Students in the United States (Second Edition, Revised). 25 cents.

Bulletin No. 3. The American University Union in Europe. (British Academic Degrees, France and Modern Science). 10 cents.

*Bulletin No. 4. Eighth Annual Report of the Director (American Education in "Backward" Countries, The Expatriated Russian Professor, Unification of Activities in International Education, Institute Activities). 10 cents.

1928

*Bulletin No. 1. The Institute of International Education—Its Origin, Organization and Activities.

Bulletin No. 2. Not published.

Bulletin No. 3. Ninth Annual Report of the Director (American Influence on European Education, Institute Activities). 10 cents.

1929

Bulletin No. 1. Fellowships and Scholarships Open to American Students for Study in Foreign Countries. 25 cents.

*Bulletin No. 2. Fellowships and Scholarships Open to Foreign Students for Study in the United States. 25 cents.

Bulletin No. 3. Tenth Annual Report of the Director (The Work Student Movement, Latin-American Cultural Relations, Institute Activities). 10 cents.

1930

Bulletin No. 1. Foreign Students and the Immigration Laws of the United States. 25 cents.

Bulletin No. 2. A Decade of International Fellowships—*A Survey of the Impressions of American and Foreign Ex-fellows*. 25 cents.

Bulletin No. 3. Fellowships and Scholarships Open to Latin-American Students for Study in the United States (in Spanish). 25 cents.

Bulletin No. 4. Eleventh Annual Report of the Director (Some Reflections on American Educational Institutions Abroad, Institute Activities). 10 cents.

1931

Bulletin No. 1. Guide Book for Foreign Students in the United States (Third Edition). 25 cents.

Bulletin No. 2. Fellowships and Scholarships Open to Foreign Students for Study in the United States. 25 cents.

Bulletin No. 3. Twelfth Annual Report of the Director (Cultural Co-operation with South America, Institute Activities). 10 cents.

1932

Bulletin No. 1. The Foreign Teacher: His Legal Status as Shown in Treaties and Legislation—*With special reference to the United States*. 25 cents.